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ENVIRONMENTAL ASSESSMENT BOARD

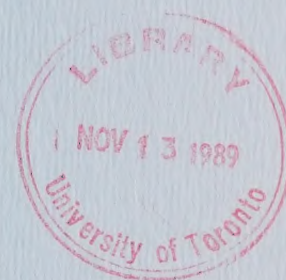
VOLUME: 154

DATE: Wednesday, November 1st, 1989

BEFORE: M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



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HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental
Assessment for Timber Management on Crown
Lands in Ontario;

- and -

IN THE MATTER OF a Notice by the
Honourable Jim Bradley, Minister of the
Environment, requiring the Environmental
Assessment Board to hold a hearing with
respect to a Class Environmental
Assessment (No. NR-AA-30) of an
undertaking by the Ministry of Natural
Resources for the activity of timber
management on Crown Lands in Ontario.

Hearing held at the Ramada Prince Arthur
Hotel, 17 North Cumberland St., Thunder
Bay, Ontario, on Wednesday, November 1st,
1989, commencing at 8:30 a.m.

VOLUME 154

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member



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A P P E A R A N C E S

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MS. K. MURPHY)	RESOURCES
MS. Y. HERSCHER)	
MR. B. CAMPBELL)	
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I N D E X O F P R O C E E D I N G S

Witness:

Page No.

<u>JOHN McNICOL,</u>	
<u>FRANK D. KENNEDY,</u>	
<u>J. JOSEPH CHURCHER,</u>	
<u>RICHARD WILLIAM GROVES,</u>	
<u>HARTLEY MULTAMAKI,</u>	
<u>ALBERT BISSCHOP,</u>	
<u>ROGER W. DAVISON,</u>	
<u>ROBERT THOMAS FLEET, Resumed</u>	26657
Continued Cross-Examination by Mr. Campbell	26657

(v)

I N D E X O F E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
912	Memorandum dated June 20, 1988, signed by the Deputy Minister of Natural Resources re: conflict of interest guidelines.	26655
913	Colour-coded sections of Exhibit 700, MNR draft terms and conditions, reflecting changes since '87 EA Document and TPM.	26656
914	Base map 508941.	26759

1 ---Upon commencing at 8:30 a.m.

2 THE CHAIRMAN: Thank you. Be seated,
3 please. Are you ready, Mr. Campbell?

4 MR. CAMPBELL: Yes, Mr. Chairman. I
5 believe Mr. Freidin had something he wanted to file,
6 further -- never mind.

7 MR. FREIDIN: I just want to get all of
8 these undertakings out of the way as quickly as
9 possible.

10 First of all, if we could file the
11 conflict of interest guidelines which were referred to
12 during the cross-examination of this panel by Mr.
13 Edwards. It is a memorandum dated the June 20th, 1988,
14 signed by the Deputy Minister of Natural Resources.

15 THE CHAIRMAN: Exhibit 912.

16 MR. FREIDIN: (handed)

17 THE CHAIRMAN: Thank you.

18 ---EXHIBIT NO. 912: Memorandum dated June 20, 1988,
19 signed by the Deputy Minister of
20 Natural Resources re: conflict of
interest guidelines.

21 MR. FREIDIN: And, Mr. Chairman, the next
22 document and maybe this might be -- you might consider
23 marking this 700A. You recall, Mr. Campbell referred
24 the other day to the draft terms and conditions of the
25 Ministry having been looked at for the purposes of

1 identifying what was new -- what in fact reflected
2 changes since the June, '87 Environmental Assessment
3 Document and also changes for the Timber Management
4 Planning Manual which would include the blue pages.

5 And we have done that, we have colour
6 coded in yellow on Exhibit 700 those sections which are
7 new using as the benchmark the '87 amendments to the EA
8 and the Timber Management Planning Manual including the
9 blue pages. So we could provide that to the various
10 parties.

11 THE CHAIRMAN: Well, to go back to 700,
12 it is in a different book to start off with.

13 MR. FREIDIN: Okay.

14 THE CHAIRMAN: We will give it a new
15 number at this point.

16 MR. FREIDIN: Sure, that's fine. I'm
17 just concerned about closing in on a thousand too
18 quickly.

19 MR. CAMPBELL: So was I.

20 THE CHAIRMAN: Exhibit 913.

21 MR. FREIDIN: (handed)

22 THE CHAIRMAN: Thank you.

23 ---EXHIBIT NO. 913: Colour-coded sections of Exhibit
24 700, MNR draft terms and
25 conditions, reflecting changes
since '87 EA Document and TMPM.

1 MR. FREIDIN: Thank you, Mr. Chairman.

2 THE CHAIRMAN: Very well, Mr. Campbell.

3 JOHN McNICOL,
4 FRANK D. KENNEDY,
5 J. JOSEPH CHURCHER,
6 RICHARD WILLIAM GROVES,
7 HARTLEY MULTAMAKI,
8 ALBERT BISSCHOP,
9 ROGER W. DAVISON,
10 ROBERT THOMAS FLEET, Resumed

11 MR. KENNEDY: Mr. Chairman, if I might
12 address the Board for a moment. In relation to the
13 timber management planning excerpts contained in
14 Exhibit 911 submitted by Mr. Campbell, I would like to
15 advise the Board which of the plans that are listed
16 here are both approved and in draft condition.

17 I think if we inform the Board of the
18 status of those plans now it may assist us in not
19 interrupting Mr. Campbell's cross-examination at a
20 later date.

21 If you were to refer to the index to Part
22 2, the plan excerpts, the Armstrong plan is a draft
23 plan currently under review, the Elk Lake plan is an
24 approved plan as is Magpie approved, and Patricia is
25 also approved. Both Trout Lake and Whitney are draft
plans that are currently under review. Thank you.

THE CHAIRMAN: Thank you.

CONTINUED CROSS-EXAMINATION BY MR. CAMPBELL:

1 Q. Mr. Kennedy, I take it however in
2 light of that additional information there is no
3 dispute; is there, that in each case the plans were
4 submitted with the certification by the forester on the
5 date shown on the signature page included in the
6 document?

7 MR. KENNEDY: A. That's correct.

8 The purpose of my providing additional
9 information is simply to indicate that because those
10 plans -- three of the plans were under review, they are
11 subject to change.

12 Q. That's fine, thank you.

13 Mr. Bisschop, I want to just pick up on
14 one of the general propositions that we discussed
15 yesterday when you agreed that with respect to the
16 environment affected good environmental planning
17 requires the planner to describe the characteristics of
18 the environment affected.

19 And with that back -- and you agreed
20 with that proposition. And with that background, I
21 gave you a transcript reference, Volume 144, October
22 5th, pages 24694 to 714 where there was a discussion
23 with Mr. Lindgren, the Chairman and Mr. Martel and
24 yourself and Mr. Kennedy with respect to background
25 information and, in that particular instance, the

1 checklist.

2 Do you recall that discussion and have
3 you had an opportunity to review the transcript?

4 MR. BISSCHOP: A. Yes, I have.

5 Q. Now, my question to you is this: How
6 exactly does the public know if a particular resource
7 or environmental feature has been thought about if it
8 is not shown on the values map?

9 A. First of all, the values map will
10 have a legend that accompanies it which identifies all
11 of the values which are displayed on the values map.

12 Q. I want an answer to my question,
13 please. My question is: How exactly does the public
14 know if a particular resource or environmental feature
15 has been thought about if it is not shown on the values
16 map?

17 A. If it is not shown? I think through
18 the direction that we provide through the list of
19 features, uses and values which is part of Exhibit 5A,
20 understanding that that direction has been provided to
21 staff, the expectation is that whatever is identified
22 on a values map would have been identified having
23 consulted that list; therefore, if something is not
24 shown it doesn't necessarily mean it hasn't been
25 thought about, it's that that particular feature

1 doesn't occur on that management unit.

2 Q. All right. But with respect, surely
3 the member of the public, for instance, who comes into
4 the office to look at a plan or comes into the
5 information centre to look at the material -- to one of
6 your open houses knows nothing about that list, it is
7 part of the training material as yet, it's not included
8 in the Timber Management Planning Manual. Even if he
9 had done some evening reading the night before of the
10 Timber Management Planning Manual, he wouldn't have
11 seen it there; would he?

12 A. That's correct.

13 Q. So I guess the proposition I'm
14 putting to you is that there is no way the public can
15 know by looking at that values map whether a particular
16 resource or environmental feature which is not shown on
17 the values map has been thought about or not. You
18 can't get that information by looking at the values
19 map; am I correct in that?

20 MR. KENNEDY: A. Mr. Campbell, you are
21 correct in the --

22 Q. I'm sorry?

23 A. You are correct in the fact that you
24 would not get that information from the values map.
25 Again, we are mapping what are known features. So as I

1 have indicated once before in cross-examination, we are
2 not able to map the unknown.

3 Q. Well, of course not, Mr. --

4 A. The way in which a member of the
5 public would be able to detect that kind of information
6 you are requesting is by attending the information
7 centre and asking questions relative to the values map,
8 which is one of the reasons why we've developed that
9 concept.

10 We are recording what is known
11 information from both our files and local experience.
12 We are putting that information out to be confirmed and
13 to be supplemented by the public, and it is by that
14 fashion that they would be aware of the --

15 Q. Mr. Kennedy, I can understand all of
16 that and all of us in cross-examination have been asked
17 not to go over ground that has been gone over before.
18 I understand that. I'd ask you to observe exactly the
19 same restrictions that in fact counsel have been asked
20 to observe.

21 I understand that somebody can come up
22 and chat to somebody, but what comes out to -- if the
23 mapping is ever produced in a satisfactorily way, for
24 instance, what comes out to Ministry reviewers, what
25 comes out to other Ministry reviewers who are looking

1 at this thing is intended to be the values map.

2 What I'm suggesting to you is, but
3 looking at that values map there is no way to tell what
4 has been thought about unless it happens to be shown in
5 the map. Am I correct in that?

6 A. And I have agreed with that. And I
7 would also advise you that that is a summary map, yes.

8 Q. All right. It's a summary map of
9 known features.

10 Now, Mr. Bisschop, I want to come back to
11 you. Yes, I agree there is a list that's been included
12 in 5A and we discussed that yesterday and the potential
13 for additions to that list. Wouldn't you agree with
14 me, however, that no matter how long that list gets
15 there will inevitably be things that are part of the
16 environment affected that won't show up on that list?

17 MR. BISSCHOP: A. Yes, I think we have
18 clearly made that position known.

19 Q. And that's really one of the reasons
20 why Mr. Kennedy has expressed some nervousness from
21 time to time about lists; is that correct?

22 MR. KENNEDY: A. Yes, it is.

23 Q. Now, let me give you a practical
24 example of the kind of problem that I see developing
25 here. I walk into an information centre, because Mark

1 has taken me out -- because Mr. Sutterfield has taken
2 me out and shown me one, I have to know where there is
3 a moose lick, all right?

4 Now, I go to the values map -- I'm just
5 an ordinary member of the public, I go to the values
6 map, I don't see any -- I am looking at it, it is all
7 very interesting, I don't see any moose lick on the
8 values map.

9 Now, as a member of the public, I
10 wouldn't even know whether a moose lick was relevant, I
11 wouldn't know -- I mean, I may have buried in my head
12 there is a moose lick in this location, but I look at
13 the values map and there is all kinds of information
14 and unless there is something that says here is the
15 kind of information we are looking for, I don't know --
16 how am I supposed to know to volunteer that
17 information? Isn't that a plausible scenario?

18 A. It is somewhat plausible, yes. I
19 think that at our information centres when we do extend
20 that invitation for people to participate in the
21 planning process that we encourage them to contribute
22 information. We have staff that are present there at
23 the information centres advising them of that fact. I
24 believe it's laid out in our brochure which advises the
25 public of their role in the planning process.

1 Q. But you would agree that there is all
2 kinds of information that people bring in with them
3 from their own life experience into those information
4 centres?

5 A. Yes, you are quite right, there is
6 some very valuable information they bring forward.

7 Q. Absolutely. And people just don't
8 sit here and sort of: Well, let me do it just to put
9 my memory bank into your memory bank. What they say
10 is: What's relevant.

11 They need to have some -- wouldn't you
12 agree that they need to have some indication of what's
13 relevant, and if these things ever became popular it
14 would be impossible to list out every relevant thing in
15 the individual face-to-face conversation with each
16 person. Wouldn't that be fair?

17 A. That's fair. The only qualifier I
18 would put is that they are coming to a timber
19 management planning session, an information centre and,
20 as such, I think their minds would be focusing on items
21 that could be affected or would be of interest to
22 timber management planners.

23 Q. All right. All of that said, would
24 you agree with me that as a general proposition it is
25 fair to say that there is no way the public can know

1 for certain if a particular resource or environmental
2 feature has been thought about if it is not shown on
3 the values map?

4 The only way they can do that is by
5 thinking about that particular feature and deciding
6 that it is somehow relevant and asking somebody?

7 A. Yes, I believe that would be a fair
8 statement.

9 Q. Now, we have been given some
10 consideration as to how MNR could provide a useful
11 guide to background information. And what I have done
12 is I've tried to establish some tests that such a guide
13 should meet and I have got five tests. I would like to
14 get your views on them as we go through.

15 A. Did you say a guide?

16 Q. A guide. I don't use it any capital
17 G sense, it is just something -- a guide to background
18 information, all right?

19 A. Fine.

20 Q. I don't mean it in a provincial
21 guidelines, capital G or any terminology -- I'm using
22 the word in its ordinary sense, all right?

23 A. Thank you.

24 Q. Now, with respect to such a guide,
25 the five tests that I would ask you to comment on are

1 as follows: First, it should be administratively
2 simple to use. That presumably is an important
3 characteristic; would you agree with that?

4 A. Yes, I would.

5 Q. Secondly, it should be relatively
6 straightforward for the public to understand? If it is
7 going to be a guide to background information that the
8 public can understand, it has got to be relatively
9 straightforward so that they can in fact understand it.
10 Would you agree with that proposition?

11 A. Yes.

12 Q. Third, such a guide should not result
13 in a requirement to produce voluminous background data
14 in the plan document; that is, we don't want to add
15 another five volumes to these things that already go
16 many volumes. Would you agree with that proposition?

17 A. Yes, I would.

18 Q. Fourth, again, it should not suggest
19 that perfect data is required before decisions are
20 made? We don't want to get ourselves in a position
21 where we immobilize ourselves because we don't have
22 perfect data on everything, that would be foolish. I
23 take it you would agree with that proposition?

24 A. Yes, I would.

25 Q. And fifth, it should help people who

1 want to determine what actual data is available as to
2 where that data resides, period? Do you want that one
3 again?

4 A. No, that's also an inevitable quality
5 of a guide.

6 Q. All right. Well, do you think that's
7 a fair test for such a guide, that's a reasonable test
8 to put it to?

9 A. I would agree with those five items
10 as being a starting place, yes.

11 Q. Do you accept those five tests as
12 reasonable tests?

13 A. Could I just have a moment. Yes, I
14 would on the understanding that the first one that
15 you've mentioned, administratively simple, encompasses
16 a practical approach.

17 Q. Absolutely. So with that addition,
18 I'll say administratively simple and practical to
19 apply, you would agree with those five tests as being
20 reasonable tests?

21 A. Yes, I would.

22 MR. FLEET: A. Mr. Campbell, could you
23 visit administratively simple again in terms of
24 background information? I'm having difficulty and
25 perhaps disagreeing with Mr. Kennedy here.

1 Q. Well, my next question was to the
2 other members of the panel to see if they agreed with
3 Mr. Kennedy's answers that those five tests were
4 reasonable.

5 A. Well, perhaps I will stick my neck
6 out here. I'm not necessarily certain that I agree
7 that the test of administrative simplicity is something
8 that is anything that I would agree to.

9 With respect, background information,
10 analysis of previous forest operations and regulation
11 of the forest which in my mind is all part of
12 background information, like the Timber Management
13 Planning Manual and the whole process, is not
14 necessarily administratively simple. It is a complex
15 science that takes years of school.

16 Q. All right. Mr. Fleet, I think we can
17 address your concern.

18 MR. FREIDIN: Well, you don't want the
19 question to be answered?

20 MR. CAMPBELL: Well, I think he is
21 answering a different question from what I am posing to
22 him, because I am not posing to him that the background
23 information itself is necessarily simple, what I am
24 saying is that if we are going to provide a guide into
25 that information, the guide needs to be practical to

1 apply and administratively simple to apply.

2 Q. Does that help you with your problem?

3 MR. FLEET: A. It helps me to disagree.

4 Q. Fine. Could I have the reason for
5 your disagreement, please?

6 A. The reason is, as I was suggesting,
7 the regulation of the forest, the consideration of past
8 operations and the background information, the rule
9 that that should be administratively simple is
10 something that I as a professional forester simply
11 can't abide by. It is complex, it is intended -- it
12 has to be complex to be done properly in my mind, and
13 so a rule of administrative simplicity -- and perhaps
14 I'm not understanding you, but...

15 Q. Well, I think in fairness you are not
16 and that's undoubtedly my problem, not yours.

17 What I am trying to say is not that you
18 should churn out all of this background information in
19 a highly simplified way or summarize it in some
20 simplistic way.

21 I am not talking about a summary of the
22 information itself, what I am saying is that we have a
23 whole raft of background information and that there
24 ought to be some way for a member of the public or
25 another reviewing ministry, if they want to, to be able

1 to go from the plan to that background information and
2 know what to ask for by having some kind of guide in
3 the document.

4 I am not talking about changing the
5 analysis or information that you use for timber
6 management planning purposes in any way. Does that
7 help at all?

8 MR. MULTAMAKI: A. Perhaps I can comment
9 on that. I tend to agree with Mr. Fleet in that really
10 the scenario that you are painting is that if you
11 compare it to, let's say mathematics in school, if you
12 have a Grade 1 math book it is a very simple guide to
13 mathematics; if you have a Grade 13 mathematics book,
14 it is considerably more complex.

15 I would say that administratively the
16 Grade 1 math book is very simple. It sure doesn't tell
17 you lots though, and I think you can compare that to
18 forestry.

19 Q. Mr. Multamaki --

20 THE CHAIRMAN: Mr. Campbell, assuming
21 that you can produce something that's administratively
22 simple, assuming you can, where are you going with
23 this?

24 MR. CAMPBELL: Well, we will just get
25 there right in just a moment, Mr. Chairman, because

1 this is sort of actually quite interesting that the
2 mere access to background information, which is all I
3 am talking about - I am trying to provide something
4 that gives people access to that information - is seen
5 as such a magical process. I wouldn't have thought
6 that access to that information is magical at all.

7 Right now we have been told by panel
8 after panel, and our cross-examinations have
9 consistently worried about this matter of background
10 information, we have been told by panel after panel
11 that there is a raft of background information. What
12 we have also been told is it all can't be put in the
13 plan and we don't expect it to be.

14 All we are saying is: Isn't it useful to
15 provide some kind of something or other, which we will
16 come to - we have a specific suggestion for this - and
17 say: Isn't it useful to provide some way of making
18 that information accessible for those people who are
19 interested.

20 THE CHAIRMAN: You list it all in a guide
21 so if anybody wanted to see it they then go from the
22 guide to the background information; right?

23 MR. CAMPBELL: Exactly, Mr. Chairman, and
24 I think I will perhaps -- all your questions are doing
25 is driving me to the point where I should put forward

1 our suggestion now and stop being coy about it and add
2 page 4 to Part 1 of Exhibit 911.

3 So if that could be distributed, then
4 perhaps we can deal with these questions in a
5 particular context instead of in the abstract.

6 MS. SEABORN: (handled)

7 THE CHAIRMAN: Thank you.

8 MR. CAMPBELL: Q. Now, Mr. Kennedy, I
9 would like to come back to you, and come back to the
10 rest of the panel in a moment, and I would like to just
11 make sure we have a clear understanding of what it is
12 that's been provided and perhaps everybody could just
13 add the words Guide to Fish and Water Quality
14 Background Information to the title.

15 Now, Mr. Kennedy, I would just perhaps
16 with you work through what is proposed by this kind of
17 a guide. And, for example, if we took the first column
18 for a particular lake, say a cold water lake by name,
19 we would show just by putting a little tick in the box
20 the kind of information that was available to the
21 planning team; that is, aerial survey, air
22 photointerpretation, spawning areas were known, nursery
23 areas were known - moving down the list - migration
24 areas, slopes were known.

25 And then the second part of the chart at

1 the bottom or the second part of the guide at the
2 bottom indicates what the location of that information
3 is and, for instance, it covers the various kinds of
4 locations that have been talked about in the hearing
5 previously.

6 There might be local knowledge that
7 simply isn't on the file or there might be knowledge of
8 the planning team based on their experience that is
9 being relied on with respect to the attributes of a
10 cold water lake, there might be special studies that
11 have been done, there might be information in fish and
12 wildlife files, timber files, and if you wanted to put
13 in another category I certainly wouldn't object to
14 that.

15 And what I would like to ask you, Mr.
16 Kennedy, is whether you believe that approach meets the
17 kind of five tests that you have talked about? I
18 assume that in terms of summarizing what information is
19 available and where, putting ticks in boxes is not an
20 administratively complex task for the planning team.
21 Would that be fair?

22 THE CHAIRMAN: Well, Mr. Campbell, what
23 does it do for you if you take a look at that so-called
24 guide, say you are talking about the first one, cold
25 water lakes, and you check off, you have got

1 information, et cetera, but a particular cold water
2 lakes doesn't appear on the values map.

3 MR. CAMPBELL: This is irrelevant of the
4 values map, Mr. Chairman. A values map is supposed to
5 be features that are going to receive --have the
6 potential for becoming areas of concern. This
7 particular one in fish and water quality, there will be
8 some aspects that will be shown on the values map.

9 What this tells you, both in this area
10 and we will get into some more later, is what
11 information the Ministry has on file; that is, not the
12 information itself but the types of information.

13 You will recall, for instance, in the
14 fish and water -- in the Fish Habitat Guidelines there
15 are certain specific information requirements that
16 govern what you can do in certain ways.

17 This immediately will tell you what level
18 of information is available and, therefore, immediately
19 advise certainly Ministry of the Environment people,
20 members of the public as to what level of information
21 is available and, therefore, they could go to the Fish
22 Habitat Guidelines and determine exactly how they are
23 going to be applied.

24 THE CHAIRMAN: What does it do for the
25 value that is met? The big problem, as I perceive it

1 to some extent, is somebody walking into an information
2 centre taking a look at a values map, not seeing a
3 particular value which they may know about but which
4 doesn't appear, and the fact that you have got a guide
5 that represents on it that there is background
6 information with respect to certain features doesn't
7 delineate that that particular one that that person may
8 know about it, such as the mineral lick that you
9 mentioned which he doesn't see on the values map, it
10 doesn't indicate where it is, or doesn't necessarily
11 mean that that person is going to bring that
12 information forward.

13 MR. CAMPBELL: Exactly. But if one of
14 these were sitting beside the map for moose, it would
15 show down here. The kind of information that would be
16 listed on the left would be moose lick, you know, is it
17 present, and he would say: Oh, they are interested in
18 moose licks. But there is no information on moose
19 licks here, there is no tick there, apparently they
20 have no information on moose licks, so maybe I should
21 volunteer this information. That's what this is for.
22 It can work in that function.

23 It really does a number of things, in my
24 submission. It does that, which is very important if
25 you are going to really propose to extract information

1 from people in a useful basis; secondly, it avoids the
2 need for setting up some sort of minimum data
3 requirements.

4 There are all sorts of these guidelines
5 that speak to data requirements being necessary for
6 their application. There has been questioning
7 throughout this hearing about what minimum data
8 requirements should be insisted on.

9 This kind of approach, by telling you:
10 Here is the kind of information we have, let's
11 everybody make a judgment as to whether there is
12 appropriate data available for the decisions that are
13 being done.

14 Thirdly, the Environmental Assessment Act
15 requires some kind of description of the environment
16 affected. To date certainly it is our concern that the
17 plans that are coming forward -- the background
18 information we are simply told is in MNR, it doesn't
19 sort of get into the document at all.

20 We believe that this is a reasonable
21 compromise between putting the information in the
22 document. The Environmental Assessment Act requires a
23 description of the environment affected. To put all of
24 that information in the document, we believe, is not
25 going to be very productive.

1 This gives us an indication then of what
2 information is available and how to get to it, and it
3 is really for those three purposes, which are the ones
4 that I have been able to think of so far, that we
5 believe that something like this addresses the concern
6 that has been raised consistently as to the information
7 or database that is available to both the planning team
8 and to members of the public if they have some ability
9 to get into it; that is, to get access -- or to access
10 that database which we certainly believe at the moment
11 is quite a difficult thing to do.

12 THE CHAIRMAN: Are you suggesting that
13 you put forward one of these for every type of value?

14 MR. CAMPBELL: We think that with a
15 reasonable number we could cover the majority of the
16 environmental, timber and other values that are
17 important in timber management planning.

18 THE CHAIRMAN: Including the
19 socio-economic and cultural?

20 MR. CAMPBELL: I think one could be done
21 in -- something like this concept could apply well to
22 those as well. We have not made up one in that area,
23 but certainly in terms of towns, native communities
24 that are not on reserves, all of those kinds of things,
25 the format works well for that as well.

1 THE CHAIRMAN: Okay. Let's find out what
2 the panel thinks about the whole idea.

3 MR. CAMPBELL: Just a moment. Could I
4 ask these questions, Mr. Chairman?

5 THE CHAIRMAN: (nodding affirmatively)

6 MR. CAMPBELL: Q. Now, Mr. Kennedy, I
7 really do want to go back, and we discussed the five
8 tests that we set up. In your professional opinion,
9 Mr. Kennedy, is an approach of this type practical to
10 apply?

11 MR. KENNEDY: A. I think the idea has
12 some merit. As far as indicating if it is practical or
13 not, I don't think I would be in a position to comment
14 on that, not having a full understanding of the range
15 of values and the manner in which you would expect them
16 to be shown on such a group of tables.

17 Q. Well, let's just look at the fish and
18 water quality table for a moment. Surely, would you be
19 able to agree that this is a practical way of
20 addressing the concern about accessibility to
21 background information with respect to fish and water
22 quality?

23 A. First of all, I'll indicate that on
24 several occasions Natural Resources' staff have made
25 reference to the fact that that information is

1 available for review by individuals in the district
2 offices. That offer has been made.

3 THE CHAIRMAN: Again, Mr. Kennedy, let's
4 try and focus this on the document. Take a look at
5 this document, please answer the question: Do you feel
6 that this is adequate for the purpose of fish and
7 wildlife -- sorry, fish and water quality concerns as a
8 guide to the background information that might or might
9 not be available?

10 MR. KENNEDY: I think there are elements
11 of it that are impractical.

12 THE CHAIRMAN: Impractical?

13 MR. KENNEDY: Impractical, yes.

14 THE CHAIRMAN: What are they?

15 MR. KENNEDY: Particularly listing of the
16 lakes by names, cold water streams by names. I think
17 that that kind of approach would result in a
18 significant amount of information and would defeat any
19 summary purpose if that was undertaken.

20 MR. CAMPBELL: Q. Mr. Kennedy, dealing
21 with that one in particular, aren't you required to
22 know that information by lake, by stream, individually
23 in order to apply the buffers? Isn't that what your
24 whole area of concern in fish habitat guides in
25 particular require?

1 MR. KENNEDY: A. Most certainly for
2 where our planning is occurring for those areas that
3 are overlapping waterbodies, we endeavor to have that
4 information at our disposal, yes.

5 Q. I'm only --

6 A. But I'd only suggest that my
7 interpretation of the sheet is that recommendation that
8 you - well, perhaps I should ask you, although I
9 understand that's not very proper, but - for what area
10 are you suggesting that such a table be completed?

11 If we are looking at the entire
12 management unit, that's a significant amount of effort
13 required--

14 Q. No, we're looking --

15 A. --to compile that and would result in
16 a significant number of sheets and I think it would
17 result in binders of information, depending again upon
18 the management unit that you are dealing with and the
19 frequency of the different values that occur in the
20 area.

21 When I think of management units in the
22 northwest region and the proliferation of waterbodies
23 compared to some of the other parts of the province, I
24 could very easily conjure up binders of information as
25 a result of an exercise such as this.

1 Q. All right. Just a minute. First of
2 all, we're really talking only of the area that is
3 being allocated for harvest, all right. So that
4 reduces the area substantially right away; does it not?

5 A. Very significantly.

6 Q. It's a very significant reduction?

7 A. Yes, it is.

8 Q. Secondly, you would agree with me
9 that in order to apply on a case by -- or you would
10 agree with me that, for instance, looking at water
11 quality, that the buffer zones and lakes, streams, warm
12 water lakes, cold water lakes, warm water streams,
13 wetlands, those are all -- perhaps I will just leave
14 wetlands for a moment.

15 The first four, cold water lakes, cold
16 water streams, warm water lakes, warm water streams,
17 those are already required to be individually dealt
18 with in your planning process; are they not, in order
19 to establish buffers on an individual basis?

20 A. You are using the word buffer, I
21 don't use that word myself. We apply the area of
22 concern planning process which could result in a
23 reserve prescription.

24 Q. All right. But just stopping there
25 for a second - I will let you finish - but to state my

1 question correctly then: In order to determine
2 prescriptions in these areas you must look at them on
3 an individual basis already; must you not?

4 A. We do allow for some grouping where
5 there are values that have the same -- or, sorry,
6 values or features that have the same conditions on the
7 ground, but generally they are treated and there can be
8 groupings or being treated individually. It does
9 require an individual assessment I would suggest,
10 though.

11 Q. Each area that's contemplated here
12 requires an individual prescription; is that not
13 correct?

14 A. Yes.

15 Q. Is that correct?

16 A. It's possible to develop a
17 prescription that would serve a group of values.

18 Q. But for each cold water lake you have
19 to individually assign a prescription to that cold
20 water lake?

21 A. Yes, eventually in the planning
22 process you end up assigning a prescription that
23 relates to the individual value on a case-by-case
24 basis.

25 THE CHAIRMAN: Mr. Campbell, do you

1 contemplate that for each named lake and each named
2 stream you will have a name affixed?

3 MR. CAMPBELL: Yes.

4 THE CHAIRMAN: Okay. And does it go on
5 the one sheet, each name?

6 MR. CAMPBELL: No, no, you can fill in
7 across the top. How many slots are there going across
8 the top. For instance, you could fill in whatever
9 number there are. For instance, if you started out
10 doing cold water lakes - how many spaces do we have
11 here - you would fit 13 lakes on that individual --

12 MR. KENNEDY: I think in Dryden District
13 I believe there is -- to the best of my recollection,
14 the lake trout lakes are in the thousands.

15 MR. CAMPBELL: Q. Are you sure about
16 that?

17 MR. KENENDY: A. In Dryden and Kenora.
18 Between Dryden and Kenora I believe.

19 THE CHAIRMAN: Perhaps I am missing how
20 you are supposed to use this chart. If you put the
21 name of a lake --

22 MR. CAMPBELL: So let's take a lake
23 there, Suffel Lake on the map there behind you, there
24 is a name of a lake.

25 THE CHAIRMAN: All right. So you put the

1 name of the lake up here and, say it is a cold water
2 lake, I have no idea what type of lake it is.

3 MR. CAMPBELL: Right.

4 THE CHAIRMAN: Then what do you do with
5 all of the information?

6 MR. CAMPBELL: You just look down the
7 list and you say: All right --

8 THE CHAIRMAN: With respect to that one
9 lake.

10 MR. CAMPBELL: With respect -- the
11 planning team says with respect to that lake, having
12 determined that it's a cold water lake and it's in the
13 cold water lake category, what information --

14 THE CHAIRMAN: Then you go right down the
15 list.

16 MR. CAMPBELL: Yes, you just put little
17 ticks in the boxes against -- if you've got it, you put
18 a tick; if you don't have it, you don't put a tick.

19 THE CHAIRMAN: OKay. Now, suppose there
20 is another cold water lake, a second one, do you have a
21 separate sheet for it?

22 MR. CAMPBELL: No, you just use the
23 second column, the second vertical column.

24 MR. MARTEL: You would then have a sheet
25 which would be for cold water lakes maybe and one for

1 warm water lakes and one for streams and so on.

2 MR. CAMPBELL: Right. I mean, it would
3 depend obviously on how many you had, no question.

4 MR. MARTEL: And it would be in the unit
5 that was being harvested?

6 MR. CAMPBELL: And it would only be for
7 the area that was allocated for harvest.

8 MR. MARTEL: Right.

9 THE CHAIRMAN: Where would you physically
10 on a sheet put the name of the lake?

11 MR. CAMPBELL: You turn the sheet
12 sideways. If you ignore where I have got things
13 printed in, you would take it like this and you would
14 say -- you would write in across -- under the 'Other'
15 on the vertical column Suffel Lake and presumably you
16 would be under a heading -- is Suffel Lake cold water
17 or warm water, Mr. Multamaki?

18 MR. MULTAMAKI: It's warm water. At this
19 point I feel obligated to tell--

20 MR. CAMPBELL: Could we just --

21 MR. MULTAMAKI: --you that you are headed
22 down a blind alley.

23 THE CHAIRMAN: Just a minute, Mr.
24 Multamaki. I just want to see how this thing works.

25 MR. CAMPBELL: All right. So you would

1 have it under the heading Warm Water, right. And then
2 you would - having turned the thing vertically again,
3 you would just under that column for Suffel Lake, what
4 is your source of information that you have about
5 Suffel Lake.

6 You may have done some aerial
7 photointerpretation, you may have done -- there might
8 be a guideline, a DLUG that applied to fisheries
9 objectives.

10 THE CHAIRMAN: Okay, I understand that.
11 But for the second lake that you want to do, do you put
12 it on the next blank line?

13 MR. CAMPBELL: Absolutely, right in the
14 next line right there. (indicating)

15 THE CHAIRMAN: And you do the same for
16 the streams?

17 MR. CAMPBELL: Yes.

18 THE CHAIRMAN: Okay. So you have got
19 about seven spaces there; right?

20 MR. CAMPBELL: Well, I think you have 13
21 going across if you ignore what we have printed in just
22 to give examples of the kind of information.

23 THE CHAIRMAN: Okay. When you run out of
24 space on that sheet, you are into your second sheet;
25 right.

1 MR. KENNEDY: And your third and your
2 fourth.

3 MR. CAMPBELL: Exactly.

4 THE CHAIRMAN: Okay. So given the unit,
5 as you understand it, Mr. Kennedy, Mr. Multamaki, how
6 many of these sheets would you suggest an average unit
7 in the northwestern part of the province, just for the
8 area that's allocated for harvest, just to do lakes and
9 rivers, would you suggest you might need in terms of
10 sheets, just a ballpark?

11 MR. MULTAMAKI: The first point I would
12 like to make is that a great number of lakes are not
13 named, they have no names, and we are talking on a
14 management unit thousands of lakes and streams. That's
15 just fish quality.

16 If you go on to the other values that are
17 out there, how do you name those? That's the problem
18 that we have geographically with naming things.

19 THE CHAIRMAN: Okay. But even -- let's
20 deal with the ones you know the names of.

21 MR. MULTAMAKI: Yes. In the Red Lake
22 District, for example, on this map there may be -- I
23 know a dozen or so that are named. The values that are
24 unnamed are significantly higher than the named ones.

25 For example, most streams that are not

1 major rivers or streams in Red Lake are unnamed and yet
2 they do have a value and they do have spawning areas,
3 they do have fish in them and so on. They simply
4 haven't been named.

5 MR. CAMPBELL: Q. All right. Mr.
6 Multamaki, am I not correct that inevitably, however,
7 for those streams, whether they have a name or not -
8 let's not get hung up on whether they have a name or
9 not - you have to apply in the end under your own rules
10 an individual prescription to that stream or lake that
11 is covered by the Fish Habitat Guidelines. You have to
12 do that.

13 MR. MULTAMAKI: A. Geographically, yes.

14 Q. All right. So that in order for
15 anyone to be able to understand whether that individual
16 prescription when they look at the map is appropriate
17 for that particular stream, doesn't it seem sensible
18 that they might want to know what kind of information
19 you have got on it?

20 A. Yes. And when you look at the area
21 of concern that's been developed for that stream,
22 that's where you see what the prescription was and how
23 it was developed.

24 Q. But am I not correct that as it
25 presently stands the area of concern does not contain

1 anything that would tell you what the background
2 information was on that particular area of concern?

3 If you included all of this information
4 in the area of concern analysis for lakes, that would
5 go a long way towards dealing with this. But that is
6 not required now; is it?

7 A. (nodding negatively)

8 MR. KENNEDY: A. Mr. Chairman --

9 Q. Just a minute, just a minute. Mr.
10 Multamaki, you shook your head negatively. Can I read
11 that as a no answer to my question?

12 MR. MULTAMAKI: A. There is not a
13 checklist in the area of concern.

14 Q. That was not my question. Is it not
15 correct that the area of concern documentation does not
16 have this kind of information requirement in it right
17 now?

18 I have looked at all of these, Mr.
19 Multamaki, and I don't see this stuff there; do I?

20 A. It doesn't have a requirement.

21 MR. FREIDIN: Your question was the
22 background information sheet, I think. -

23 THE CHAIRMAN: Okay. Mr. Campbell, let's
24 try and just solve the practical problems. If this is
25 going to be of any use, it has got to be practically

1 applied.

2 MR. CAMPBELL: I agree.

3 THE CHAIRMAN: If you don't have a name
4 of a lake or a stream, and that appears to be the case
5 in many cases, how is it going to be described on this
6 sheet of paper?

7 MR. CAMPBELL: The same way -- whatever
8 way they want to use, because they have to describe it
9 now for the location of an individual prescription,
10 whatever their coding is to get me to the location, I
11 don't care, put it at the top.

12 THE CHAIRMAN: Okay. Mr. Multamaki, the
13 next question is: In an average unit, say Red lake,
14 how many of these sheets are you going to have to
15 produce using textual descriptions if necessary for
16 unnamed lakes and rivers that you haven't got a name
17 for?

18 MR. MULTAMAKI: I'm not sure that Red
19 Lake is an average unit, but I can see quite frankly
20 there being literally thousands and thousands of pages.
21 That's what we are talking about.

22 And the other thing is, I can see the
23 situation where values overlap and how do you deal with
24 it; for example, do you fill out one sheet for a moose
25 aquatic area and a second sheet for the warm water

1 lake -- or, sorry, the warm water stream that that
2 moose aquatic feeding area is in, plus a third sheet
3 for the cottage lot subdivision that happens to be
4 adjacent to it or down the stream to it.

5 You know, by the time you get finished
6 dealing with all of the values and filling out one of
7 these sheets or putting ten of those values or whatever
8 on each sheet they start to overlap, they start to run
9 into each other and this relatively simple
10 administrative sheet becomes a nightmare.

11 MR. CAMPBELL: Q. Mr. Multamaki, am I
12 not correct that with respect to every item that would
13 be required to be listed across the top of this sheet,
14 every lake or stream that would be required by this
15 sheet to be listed, there is required to be developed
16 an individual prescription?

17 MR. MULTAMAKI: A. Yes. I'm not sure I
18 am following you here. But if you have got a value and
19 an area of concern identified to deal with that value
20 you will have eventually a prescription for it.

21 Q. And isn't that exactly what we are
22 talking about, a value, a warm water stream? You are
23 already dealing with each stream individually in terms
24 of developing a prescription; are you not?

25 A. No, we are not dealing in -- we are

1 dealing with them at the value stage as an individual
2 value, they are listed as an individual value, but for
3 prescription purposes they may be combined.

4 Are you suggesting here that we combine
5 fish and water quality with moose aquatics, with
6 cottage lot subdivisions, with canoe routes, with
7 tourism outpost camps, main base lodges, historical
8 sites, ANSIs, the whole range that may occur in exactly
9 that same geographical area?

10 Q. Mr. Multamaki, what I am trying to
11 put forward is something that indicates to people that
12 when you develop an individual prescription to an
13 individual geographic area, which you have confirmed
14 you must do, that you have some way of telling people
15 what background information might be available to them
16 if they want to look at it.

17 Now, I have seen nothing in any of the
18 planning material that has been brought forward that
19 tells the individual or the other ministries or anyone
20 else who is interested the background information that
21 is available in the specific decisions that you are
22 making.

23 And I would like to know how this -- I
24 would like to know -- if you can't get along with this
25 solution, I would like to know how you intend to deal

1 with the requirement to describe the environmental
2 affected. That's all I am doing. It seems to me that
3 you are overcomplicating this by many, many times.

4 A. Mr. Campbell --

5 MR. FREIDIN: I suppose the parties could
6 debate as to how one goes about describing the
7 environment affected in an acceptable way, and I take
8 it from your question, for environmental assessment
9 purposes. This is how we do it, we think that does
10 meet the requirements of the Environmental Assessment
11 Act.

12 THE CHAIRMAN: Is there anything in the
13 Act or is there anything in the process that demands
14 that it be described always in words?

15 MR. CAMPBELL: No, and I'm not asking
16 that it be described in words. What I'm asking is:
17 How in heaven's name can we tell people what
18 information is and isn't available for a particular
19 area where decisions are being made.

20 Mr. Freidin is quite right, they said:
21 We may or may not have the following kinds of
22 information available.

23 MR. FREIDIN: I didn't say that.

24 MR. CAMPBELL: Mr. Freidin's evidence in
25 this case is that they have all kinds of information

1 and we have seen in cross-examination, in my
2 submission, in this case that we have no idea whether
3 in particular on a particular piece of geography that
4 information is or is not available.

5 THE CHAIRMAN: Well, if something is put
6 on the values map -- let's just go back to the values
7 map for a minute.

8 If something is depicted on a values map
9 and somebody looks at a feature on the values map and
10 then says: I want to find out what information you
11 have relative to this feature on the values map, they
12 can at that point be told what information there is; is
13 that not the case?

14 MR. KENNEDY: That is the case, as well
15 as if someone was coming forward reviewing an area of
16 concern prescription they would see the rationale for
17 that prescription. Where the professional and
18 technical staff have reviewed information that is
19 available to them, they would make the decision on the
20 basis of that information.

21 THE CHAIRMAN: And if there is no
22 information available for that feature and, for
23 instance, it fell into the category of a lake or a
24 stream and into that area where there is no information
25 the guidelines have to be applied in a more stringent

1 fashion, they would be told that?

2 MR. KENNEDY: That's right, sir. The
3 guidelines have provided in them --

4 THE CHAIRMAN: And if it is not on the
5 values map, is it not the case that at least from the
6 Ministry's point of view they don't even know it
7 exists?

8 MR. KENNEDY: That's generally the case
9 with --

10 THE CHAIRMAN: Subject to your comments
11 earlier this morning.

12 MR. KENNEDY: Yes.

13 MR. CAMPBELL: Well, Mr. Chairman, with
14 respect, I don't believe that we have heard any
15 evidence that -- well, never mind, I won't get into
16 this point.

17 Mr. Chairman, I would like the
18 opportunity to explore with this panel -- they have
19 made a number of statements that there would be
20 thousands of these sheets required, that there are
21 thousands of lake trout lakes in the one unit.

22 MR. FREIDIN: It wasn't the one unit,
23 they said between Dryden and Kenora.

24 MR. CAMPBELL: Thousands of lake trout
25 lakes between Dryden and Kenora. There is other

1 things. We have taken a look at this, we know where
2 cold water lakes are and, quite frankly, all we are
3 talking about here is adding at most one column of
4 entries for the matters that are already covered in a
5 variety of other ways that have to be looked at rather
6 in the course of doing their planning.

7 It seems to me that we have established
8 that appropriate background information is required for
9 planning and we have no way of knowing what actual
10 information is available on any particular unit at the
11 moment.

12 THE CHAIRMAN: Okay, Mr. Campbell. The
13 Board is trying to follow along seriously with your
14 proposal, but what the Board is interested in is:

15 A member of the public walks in, it's
16 fine if the information is on the one sheet or the two
17 sheets or even three sheets, what we are trying to
18 ascertain is, in a practical sense, if somebody walks
19 in and wants to flip through to see what background
20 information is available, what is that person going to
21 be faced with?

22 Are they going to be faced in a practical
23 sense dealing with the cold water lakes, warm water
24 lakes and all the other competing values that may
25 overlap, as indicated by Mr. Multamaki? How many

1 sheets practically are they going to be faced with
2 going through?

3 If they are going to have to go through
4 50 sheets to find out if one of them contains the
5 information which they may be looking for, and it won't
6 contain the information per se it will contain the
7 summary of what information may or may not be
8 available, then we can evaluate it as to its
9 practicality, as to its relative assistance to the
10 public in going at it that way.

11 So let's direct the next series of
12 questions to ascertain those kinds of answers as to
13 what will be available to the public and what task they
14 will have to go through to find the information they
15 are looking for.

16 MR. CAMPBELL: All right.

17 MR. MARTEL: Could I raise a question
18 first. I want to go through it. If I could, I want to
19 ask: The number of cold water lakes, it seems to me we
20 got that figure way back in Panel 2, 3 or 4. I think
21 the number was - I could be wrong and probably am
22 wrong - was it in the neighbourhood of about 750 or 800
23 in northern Ontario and northern Ontario being the
24 leading place for cold water lakes in the world?

25 MR. FREIDIN: It might have been in Panel

1 6 with Mr. Kenrick.

2 MR. MARTEL: Well, a long time ago,
3 anyway. Just to get a handle on it because, I take it,
4 if you say there are thousands in two units, it just
5 throws everything out of whack.

6 I mean, we have to deal with it based on
7 the numbers game and the problem of identification, you
8 have to look for lakes now, you have to work around
9 them, you have to provide prescriptions if necessary,
10 you must identify them somehow.

11 I mean, surely what you are looking for
12 is a simple solution to guide the public. If you want
13 to get out of trouble with the public, you let them
14 know what's happening, you let them know what's
15 available. And there is no use -- this is a complex
16 problem, it is more complex to the average Joe on the
17 street than it is to a forester.

18 But if you want them to be part of this
19 process, they are going to have to understand it, and
20 with the pile of information available, there is no way
21 for the average Joe on the street to understand what is
22 going on and we have got to find a way to assist them.

23 So I get a little nervous when I hear
24 people making -- well, there are thousands of cold
25 water lakes in two units. My memory is not very good,

1 but it seems to me that there is not that many in
2 northern Ontario. Maybe I am wrong.

3 MR. FLEET: Mr. Martel, I think Mr.
4 Kennedy is trying to find some number for you out of
5 the District Land Use Guidelines.

6 But just a comment I could make with
7 respect to -- if I can be so bold as to speak for the
8 public at large, in the numerous information centres
9 that I have attended in my role as a provincial
10 planning specialist, my previous job, I cannot recall a
11 single member of the public ever asking what
12 information was available. They look at our maps, they
13 see the identification of a value and they take it from
14 there.

15 I have never been questioned about: Do
16 we have surveys, do we have this, do we have that.
17 It's implicit in the identification of the value that
18 if we could identify it, we knew there were fish
19 species present and so forth. I cannot recall any
20 member of the public ever asking what background
21 information was available.

22 MR. MARTEL: Part of it though, you have
23 to understand when the public goes to an open house,
24 the volume of information that faces them is just
25 overwhelming; isn't it?

1 MR. FLEET: And my concern with respect,
2 if you will, to this checklist --

3 MR. CAMPBELL: This is not a checklist,
4 Mr. Fleet.

5 MR. FLEET: With respect to this list.

6 THE CHAIRMAN: Let's call it a guide.

7 MR. FLEET: With respect to this guide,
8 is that it, in my opinion, unnecessarily adds to that
9 volume of information that would be thrust to the
10 public when, based on my experience, they have not
11 asked for it to begin with. They seem to understand
12 the concept of maps. They want to go and look in their
13 backyard and that is what they do.

14 MR. MARTEL: I understand that. But you
15 have to understand as well though that having been
16 heavily involved with transportation routes, municipal
17 planning - and you have open houses with them all - the
18 public comes in, they are mesmerized by the volume and
19 the amount of material that they are faced at any of
20 these open houses is somewhat overwhelming.

21 MR. FLEET: Even if this guide resulted
22 in the creation of as few as ten pages or less--

23 MR. MARTEL: Yes.

24 MR. FLEET: --it hasn't been demonstrated
25 to me by the public that they will be interested in

1 reading that or looking at that.

2 They want to go and they want to look at
3 a map and that is why we have developed our system, our
4 planning process, and why the focus is with respect to
5 maps and subsequently with AOC prescriptions that they
6 can refer to after they have identified their
7 particular value in their own backyard on that map.

8 THE CHAIRMAN: Well, have you got any
9 idea of how many of these sheets would be required in
10 the Red Lake unit?

11 MR. KENNEDY: I just quickly took a look
12 at two District Land Use Guidelines, one for Timmins,
13 and looked at lake trout lakes only which I knew were
14 listed. In Timmins District there are eight lake trout
15 lakes and there is no indication, at least in my
16 cursory look, no indication of the number of warm
17 waters lake. In Thunder Bay District there are 75 lake
18 trout lakes.

19 MR. MARTEL: But that isn't all in the
20 allocated areas though, Mr. Kennedy, at any specific
21 time all 75 of them? I think Mr. Campbell was very
22 careful to say the allocated areas for cut--

23 MR. KENNEDY: Yes, he did say that.

24 MR. MARTEL: --the lakes would have to be
25 identified.

1 MR. KENNEDY: Yes, he did say that.

2 MR. MARTEL: It makes a big difference;
3 doesn't it, in the volume of material that's compiled
4 for the guide?

5 MR. KENNEDY: Yes, it does. Also, to
6 give you some idea of magnitude - and this would be
7 subject to verification, also subject to judgment as to
8 which lakes were included - but a moment ago you may
9 have seen me stand up and do a quick count of the lakes
10 on the map that's behind me.

11 I come up with 12 in that area, I've
12 doubled it to 24 because the area behind me is only
13 half a licence. There are 17 base maps in Red Lake
14 Crown Unit. So if I was to do a very cursory
15 calculation I would end up with 400 waterbodies that
16 potentially would be used that are adjacent to the
17 allocated areas and that is just to fill in the fish
18 and water quality table.

19 THE CHAIRMAN: Sorry, so that's 400 lakes
20 adjacent to the areas of allocation?

21 MR. KENNEDY: Yes.

22 THE CHAIRMAN: Within the one unit?

23 MR. KENNEDY: Within the one unit.

24 THE CHAIRMAN: For just --

25 MR. KENNEDY: Just fish and water

1 quality, lakes and major rivers.

2 THE CHAIRMAN: So to fill out this
3 guide --

4 MR. KENNEDY: It would take approximately
5 30 sheets.

6 THE CHAIRMAN: 30 sheets just for the one
7 value.

8 MR. KENNEDY: I would say that's --

9 MR. CAMPBELL: Well, just a minute, Mr.
10 Chairman.

11 Q. If that's so, why aren't there 400
12 AOC prescriptions on the Red Lake unit?

13 MR. KENNEDY: A. Some of our
14 prescriptions -- some of our lakes have more than one
15 area allocated against them.

16 Q. Well, why wouldn't that be the same
17 thing here?

18 Just a minute, just a minute. Mr.
19 Kennedy, wouldn't it be exactly the same thing here?
20 You don't have 400 AOC prescriptions in the Red Lake
21 Plan on lakes.

22 A. No, we do not.

23 MR. FLEET: A. It wouldn't be the same
24 thing. In our area of concern prescriptions, Mr.
25 Campbell, we can take into account by a single

1 prescription three or -- the point Mr. Multamaki was
2 trying to make is we can take into account on one AOC
3 prescription three, four or more values.

4 Q. You develop -- I had confirmed, I
5 don't know how many times this morning, you develop
6 individual prescriptions for individual geographic
7 areas in areas of concern.

8 A. Let's take for example and look at --

9 Q. Look, are you changing your evidence
10 on this now?

11 A. No, absolutely not, I am elaborating
12 on that. If, for example, you apply the cold water
13 guidelines, if you would, to a lake there could be two
14 values, the lake and the archaeological site along that
15 lakeshore. It would be one AOC file; one AOC, two
16 values.

17 And the point Mr. Multamaki was making
18 was that it's often compound values covered by a single
19 prescription and our difficulty with understanding how
20 this guide would be applied would be: Would we not
21 then, in able to best inform the public with this
22 guide, have to have three or four columns per
23 prescription.

24 Q. All I am talking about is the
25 characteristics of the lake itself. There may be five

1 prescriptions around a lake, I agree; I am talking
2 about the characteristics of the lake itself.

3 A. There would be one prescription for
4 that lake, it would cover five values. So what we can
5 now achieve with our area of concern planning process
6 with a single prescription, this simple administrative
7 guide would require five, maybe one, sometimes five and
8 maybe more columns.

9 So, in other words, we might have 29 AOCs
10 on the Red Lake Crown Management Unit, but we could
11 have 150 particular columns on your guide.

12 Q. I don't understand how that could be
13 at all. We are not talking about replacing the AOC
14 process with this.

15 A. Not at all, we are talking about
16 trying to be complete.

17 MR. MULTAMAKI: A. Mr. Campbell, perhaps
18 I can provide some clarification on that. For example,
19 on let's take Suffel Lake, it has a reserve -- or the
20 final prescription was a reserve for say two or three,
21 I think in this case there are two blocks adjacent to
22 it. Those were combined into a single AOC because the
23 prescription was exactly the same; i.e., a reserve.

24 Had there been, let's say, a spawning
25 area adjacent or on that lake, in your method you would

1 identify that as another value; would you not?

2 Q. No, I would simply have the column
3 Suffel Lake and I would look down the column and I
4 would say: Oh, there is a spawning area and you have
5 got information on that, and there is a migration area
6 and you have got information on that.

7 All I am trying to get is some
8 understanding of the background information on a
9 particular basis.

10 A. Okay. I guess the problem then --
11 perhaps the spawning area was a bad choice because it
12 relates to fish. If there was a moose aquatics area
13 adjacent to that, would that show on your table?

14 Q. It would show on a moose table,
15 absolutely.

16 A. Okay. Which would be a second table.

17 Q. Absolutely.

18 A. That means you would have two sheets
19 where we have one area of concern. If you had a
20 cottage lot there, where would that show?

21 Q. Just a minute. Isn't it possible
22 that you would have an area of concern that arose from
23 a moose aquatic area at one portion of the lake and an
24 area of concern in a completely different portion of
25 the lake that had to do with, for instance, a spawning

1 area; isn't that already possible?

2 A. It's possible. Like, any combination
3 is possible. It is also possible that there could be a
4 tourist operation, a canoe route, a cottage lot
5 subdivision and --

6 Q. I think we have got cottaging on
7 here. We have got a few other things on here. We are
8 not wedded to the particular entries, you can add
9 things if you find it easier to do that.

10 All I am saying is: How the heck does
11 anyone know what background information you have got?

12 A. Well, I guess the next question is:
13 How do you know what information is on that lake if you
14 have at least two or three or four sheets in several
15 different sections that you have to go to to find out
16 about an individual lake.

17 Q. Fine. The point is --

18 A. Those are the difficulties that I'm
19 trying to point out, Mr. Campbell.

20 Q. Fine.

21 MR. FREIDIN: Isn't the evidence that Mr.
22 Fleet has indicated what people's experience is, what
23 the people talk to at these information centres is what
24 they want: Does the Ministry have the experience in
25 this, and they said what they want. We designed a

1 system to address what they want. We provide them
2 information when they ask for it.

3 Mr. Fleet indicated that they don't ask
4 for it very often and they can provide the information
5 when they want it. That's the position of the
6 Ministry.

7 THE CHAIRMAN: Okay. We are going to
8 take a break. 20 minutes.

9 ---Recess taken at 9:40 a.m.

10 ---On resuming at 10:05 a.m.

11 THE CHAIRMAN: Thank you. Be seated,
12 please.

13 Mr. Campbell, the Board had a discussion
14 over the matters raised this morning and the Board
15 would like to suggest that, in its view, the idea of
16 these checklists - not checklists - guides would not be
17 practical and, consequently, we would like you to move
18 on to something else.

19 Our suggestion - and perhaps you can
20 canvass this with the Ministry or put it forward in
21 your own conditions of approval or put it forward in
22 your own case, if you have an alternative - our
23 suggestion, frankly to assist the public and address
24 your concern, would be simply to have the sheets that
25 are going to be placed in the Timber Management

1 Planning Manual, the three sheets listing the various
2 values, perhaps set out beside the values map with a
3 sign encouraging any members of the public to review
4 that list.

5 If they don't see one of those values
6 listed on the map or identified on the map, or there
7 are other values that don't appear on the list, to
8 notify the nearest person at one of these public
9 information sessions and advise them of their concern
10 and advise them of the information they might have, and
11 then let it go from there.

12 We just find that we think we understand
13 the concept you are putting forward and we think we
14 understand some of the concerns put forward by the
15 panel to that concept, and we would like not to spend
16 any more time on it.

17 MR. CAMPBELL: Mr. Chairman, I understand
18 that from the public point of view, that was only part
19 of my questioning. I do want to ask some additional
20 questions on this matter in relation to the Ministry of
21 the Environment's particular concerns with respect to
22 the review of these plans.

23 THE CHAIRMAN: Very well.

24 MR. CAMPBELL: Q. Now, Mr. Kennedy, is
25 there some objection in principle to revealing the

1 scope and quantity and nature of background information
2 available to MNR with respect to the particular areas
3 allocated in a particular timber management plan?

4 MR. KENNEDY: A. Could you rephrase your
5 question in perhaps a slightly different manner. I
6 want to be sure I understand what you're asking.

7 Q. I'm asking whether the Ministry of
8 Natural Resources takes any objection in principle to
9 revealing background information in respect of areas
10 allocated for harvest for a particular plan?

11 A. Not at all. We have made it quite
12 clear I believe that that information is open to the
13 public and we think inherent in our looking for a
14 confirmation, as we have indicated, that requires
15 reviewing that information.

16 Q. Mr. Fleet, would you agree with that
17 answer, that there is no objection in principle to
18 revealing the background information available for the
19 areas allocated for each particular plan?

20 MR. FLEET: A. Mr. Campbell, there is
21 one notable exception. Generally I do agree in
22 principle; however, I believe it is the Ministry of -
23 I can't keep up - the Ministry of Culture and
24 Communications have asked us on occasion not to provide
25 their background information particularly with respect

1 to burial sites and so forth because they might be
2 violated. Generally I would agree.

3 Q. All right. Is there anyone on the
4 panel who disagrees with the answers that have been
5 given or would like to add anything to them?

6 MR. BISSCHOP: A. Mr. Campbell and Mr.
7 Chairman, at some risk of hopefully not getting back to
8 what we discussed before the break, I think -- the
9 panel had a discussion, the witness panel had a
10 discussion about this over the break and we believe we
11 can introduce some information that would be helpful in
12 this regard that relates to the training session that
13 we conducted in June of 1989, the timber management
14 planning training session.

15 In that package of material in the
16 presentation that I gave in training on area of concern
17 planning we identified what I referred to as
18 documentation requirements for area of concern
19 planning.

20 We have made copies, if we could
21 introduce it as evidence, of one page from that
22 training material that outlines documentation
23 requirements for area of concern planning and
24 specifically indicates that one of the elements of that
25 documentation requirement is to identify the source of

1 the information about the value that we are protecting.

2 Q. I certainly have no objection to it
3 being introduced. Perhaps if you could get copies
4 distributed. What is the page number in the training
5 manual, Mr. Bisschop?

6 A. It's page 210.

7 MR. FREIDIN: (handed)

8 THE CHAIRMAN: Thank you.

9 MR. BISSCHOP: Mr. Chairman, I believe...

10 MR. CAMPBELL: Perhaps, Mr. Chairman, we
11 have this same page that we were going to be referring
12 to later, so perhaps if it could just be given page 5
13 and 6 in the binder, that would be perfectly
14 satisfactory to us and we will bring down a punch at
15 noontime so that it can be -- people who want to can
16 punch it and put it in their binders.

17 And that would become then exhibit -- or
18 pages 5 and 6 to Part 1 of Exhibit 911.

19 Q. All right. Mr. Bisschop, if you will
20 explain what you had in mind here?

21 MR. BISSCHOP: A. Mr. Chairman, I
22 believe that through this requirement we have addressed
23 Mr. Campbell's concern regarding providing information
24 about what is the source of the information about the
25 value we are attempting to protect, and as well

1 addresses many of the concerns that were raised in
2 particular by Mr. Fleet and Mr. Multamaki regarding
3 multiple values in an area of concern.

4 I would simply refer to the documentation
5 requirement No. 2 and I should stress that this is
6 probably the first time that we've set it out on paper
7 as a requirement of documentation for the purposes of
8 the 1989 training course, that for the area of concern
9 for the value we are trying to protect we have to
10 describe the - and what I would do now is pluralize the
11 word - features, uses or values to indicate whether or
12 not they are multiple values, to provide details of the
13 information available.

14 For example with water courses, details
15 of slope information and the information source or
16 sources. And we see the supplementary documentation as
17 a logical place to document information sources about
18 values and, therefore, a very ready reference location,
19 if you will, for the public; if they have a concern
20 about a particular area of concern, to find out what
21 information we have available to us.

22 The documentation would identify the
23 information source and I think, as the Ministry has
24 indicated all along, those sources are -- the actual
25 material is available in the Ministry's office in the

1 files.

2 Q. Now, Mr. Bisschop, in the bulletin
3 that you propose to file on or before December 15th, is
4 it proposed that you will give details here of the
5 kinds of material or the kinds of detail that will be
6 expected in this section of the area of concern
7 requirement?

8 A. The amount of thought we have given
9 to the idea already would be to provide elaboration on
10 these requirements, yes.

11 Q. So we would be able to determine, for
12 instance, if we were concerned about the application of
13 the Fish Habitat Guidelines, the precise nature of the
14 information that was available and whether it met the
15 minimum information requirements set out in those
16 guidelines; is that what is being contemplated?

17 A. Yes, I would say that's being
18 contemplated.

19 Q. All right. Now, that is certainly
20 useful for purposes of those areas that are
21 particularly areas of concern, but am I not correct
22 that with respect to environmental characteristics we
23 are concerned with the whole area of the undertaking;
24 is that not correct, Mr. Bisschop, that the environment
25 extends beyond areas of concern?

1 A. When you refer to area of the
2 undertaking, do you mean entire area of management
3 unit?

4 Q. I mean the area of the undertaking.
5 You have areas of concern all across and this
6 undertaking relates to much more than areas of concern;
7 does it not?

8 A. Yes, that's correct.

9 Q. All right. Now, with respect to the
10 area allocated for harvest that is outside areas of
11 concern, where would we be able to obtain in the plan
12 similar information about details of information
13 available and information source with respect to
14 environmental characteristics of the balance of the
15 area allocated?

16 A. Through the SGR, silvicultural ground
17 rules, through the discussion of forest resource
18 inventory forest units use --

19 Q. We will come to that, but --

20 MR. FREIDIN: Well, wait a minute.

21 MR. CAMPBELL: I'm sorry.

22 MR. FREIDIN: You'll come to it. I think
23 you have come to it, let him answer the question.

24 MR. CAMPBELL: Fine, fine.

25 MR. FREIDIN: You asked him to give a

1 description and he is trying to answer the question.

2 MR. CAMPBELL: Fine, fine.

3 MR. BISSCHOP: Perhaps Mr. Kennedy could
4 speak to this better, but I'm thinking in terms of the
5 use of the FEC, that kind of material. It's -- I can't
6 speak exactly to how we would document the source of
7 that material, we would document the use of that
8 material in the development of the silvicultural ground
9 rules.

10 Perhaps Mr. Kennedy could help there.

11 MR. KENNEDY: As well as the information
12 that is contained in a variety of summary tables of the
13 forest resource inventory ledgers. Not to repeat the
14 evidence in any way of Dr. Osborn from Panel 3, it has
15 been demonstrated that there is a considerable volume
16 of information available in the forest resource that is
17 summarized into a series of half a dozen tables in a
18 timber management plan.

19 MR. CAMPBELL: Q. Well, I am quite
20 familiar with the tables in the timber management plan.
21 And, for instance, where would it tell me in the table
22 that Mr. Bisschop referred to, which is 4.11, or any of
23 the other tables, for instance, whether or not there
24 was a soil survey conducted in a particular area which
25 was allocated for harvest?

1 MR. KENNEDY: A. It would not indicate
2 if a soil survey had been done.

3 Q. So it might indicate, for instance --
4 my recollection of Table 4.11 is that there might be a
5 site description which occasionally includes -- well,
6 which includes soil characteristics, but there is
7 nothing there to tell me whether any soil survey has
8 been done to confirm that that is in fact what is
9 there, not just what is expected to be there; is that
10 fair?

11 A. That's correct. There is no direct
12 correlation or indexing of so-called silvicultural
13 ground rules to soil survey information. We have
14 outlined in Panel 7 the efforts that Natural Resources
15 takes in regards to collecting that kind of
16 information.

17 Q. I know you have outlined in general
18 what can be done in general. What I am concerned with
19 is: How does the Ministry of the Environment, for
20 instance, when it is sent a draft plan for review, make
21 any judgment when it sees an entry of certain data as
22 to what the source of that data is?

23 It makes a big difference; does it not,
24 Mr. Kennedy, to the quality of the data as to whether
25 there has been an actual on-the-ground survey, whether

1 it is an expectation, whether it is based on some other
2 source of information? Isn't there a qualitative
3 element to that data that is important in assessing
4 environmental impacts?

5 A. I'm sorry, I think you have rolled a
6 number of questions altogether and I have lost sight of
7 what you are referring to.

8 Q. I will break it down.

9 A. If you -- please do.

10 Q. The information that we have seen in
11 plans that we have reviewed, Mr. Kennedy, we confirm
12 contains in varying amounts of detail site
13 descriptions; does it not?

14 A. Yes, it does as part of the
15 silvicultural ground rules.

16 Q. Yes. And isn't it also fair to say
17 that, except in rare circumstances, it is not possible
18 to tell from reviewing the plans whether that
19 information was based on a high quality soil survey or
20 whether it is simply the expectation of the forester as
21 to what he will find there when they actually go out
22 and start working on the ground?

23 A. I would have to say that that is not
24 the intent of the table and, as such, it does not
25 show --

1 Q. Mr. Kennedy, please would you be
2 responsive to my question. I understand it's not the
3 intent of the table, the intent of the table is to
4 record results. My question was completely different.

5 It is: Based on reviewing the plan, is
6 it not fair to say that, except in rare circumstances,
7 one doesn't know whether that description that is on
8 the table is based on an actual soil survey or whether
9 it is based on a forester's expectation of what would
10 be found on the ground when he gets there or something
11 inbetween? I can't tell that from looking at the
12 plans; can I?

13 MR. FREIDIN: What are you talking about?

14 MR. CAMPBELL: Just...

15 THE CHAIRMAN: Yes or no. Can you tell
16 from looking at the plan?

17 MR. KENNEDY: No, you cannot, you have to
18 rely upon the professional judgment -- or, sorry, the
19 judgment of the professional forester to use whatever
20 information is available to him to develop a site
21 description.

22 THE CHAIRMAN: Okay. That's the answer.

23 MR. CAMPBELL: Right.

24 Q. And, Mr. Kennedy, is it not also
25 correct that that judgment, it is important in

1 assessing the quality of that judgment to understand
2 the quality of the information that it is based on?

3 If it's simply an expectation of what
4 would be found there when you get out there and he
5 makes a judgment, that's one kind of judgment; if there
6 has been an actual soil survey, soil profile done, all
7 of the other things that might be relevant in a soil
8 survey, then a judgment based on that information is a
9 significantly different kind of judgment; is it not?

10 MR. KENNEDY: A. That judgment would
11 have the benefit of that additional information to
12 augment the experience, et cetera, yes.

13 Q. Wouldn't a reviewer -- isn't it fair
14 for a reviewer to want to understand those two
15 different kinds of judgments that are being made?

16 A. I have some trouble with that.

17 Q. Let's back up then. If you know that
18 Mr. Multamaki says: I have never been on that piece of
19 land but I think the soil conditions are going to be
20 this, using his judgment and experience, that's one
21 thing; is it not?

22 Let's take that as a starting point.
23 Don't you attach a different level of reliability to
24 that judgment if Mr. Multamaki says: I have been out
25 there, we have done a soil survey, we have got a soil

1 profile, we have done the appropriate whatever it is
2 you do in a soil survey, and here is what the soil
3 conditions are and, therefore, we have got this site
4 description. Isn't that a materially different
5 situation?

6 A. Yes, it would allow you to have a
7 more exact description of the soils that are found
8 within the area that was surveyed.

9 Q. And wouldn't it allow you to have a
10 higher degree of confidence that the prescriptions that
11 are then being put in place for that area are in fact
12 appropriate for the conditions that you find there?

13 A. Yes, you would have a better
14 knowledge base from which you develop a prescription.

15 Q. And wouldn't you have more confidence
16 in that prescription as being appropriate?

17 A. At that point there are a variety of
18 other factors come into play and --

19 Q. I understand that.

20 MR. FREIDIN: Well, wait a minute.

21 MR. CAMPBELL: Well, look, Mr. Freidin,
22 for heaven's sake.

23 THE CHAIRMAN: No, just a minute,
24 gentlemen. We would like really to get the answers,
25 Mr. Kennedy, to the questions asked.

1 Just a minute, Mr. Freidin. We realize
2 that some elaboration is necessary in certain cases,
3 but please take into account the specific question and
4 if you can produce a straightforward answer to that
5 question, do so. Then Mr. Freidin in re-examination,
6 if he feels there is something necessary to bring out
7 to somehow qualify that answer or to somehow elaborate
8 on that answer, he can do so.

9 But it makes it difficult for a
10 cross-examiner to ask the specific questions, many of
11 which in the Board's view can be answered with a simple
12 yes or no; the ones that can't be answered with a yes
13 or no, I'm sure you will yourself know which ones those
14 are and will respond with an appropriate answer.

15 But I think we can move this along in a
16 more productive fashion if we really try and
17 concentrate on answering the specific questions asked.

18 Mr. Campbell, go on.

19 MR. CAMPBELL: All right. Mr. Chairman,
20 I want to be clear in using this example. Mr. Kennedy
21 may be worried that we are leading towards some kind of
22 suggestion that, for instance, soil surveys are
23 required in all cases. We are not going to suggest
24 that. What we are saying is that in evaluating these
25 plans -- and I put the question again to Mr. Kennedy.

1 Q. In evaluating these plans, Mr.
2 Kennedy, isn't it fair for the people who are being
3 asked to evaluate them to know the quality, scope and
4 nature of the information base that is behind the
5 judgments being made? That's my simple question.

6 MR. KENNEDY: A. Yes, I can see how you
7 would make that proposition.

8 Q. I know I can make that proposition.
9 What's your answer to my question?

10 A. Yes.

11 Q. Thank you. Now, is it not also true
12 that with respect to -- I will take at face value Mr.
13 Bisschop's assurance that the kind of concerns we have
14 about scope, information available and information
15 source will be addressed, as he says, that's areas of
16 concern.

17 Am I not also correct that with respect
18 to the vastly larger area allocated for timber purposes
19 the plan reviewer has no way, based on the plan in
20 front of him, to make the kind of judgment that I am
21 talking about with respect to -- use soils as an
22 example, but it can be any other example.

23 Is that not also fair, having reviewed a
24 lot of plans?

25 A. There are various degrees of

1 information contained in the plans but, by and large,
2 yes.

3 THE CHAIRMAN: Well, let's also just
4 explore the further question that Mr. Campbell will
5 probably get to in any event, and that is: Can you
6 produce in a plan the source information?

7 In other words, you say that the
8 silvicultural guides essentially describe the
9 conditions which may be based on a variety of other
10 information such as soil surveys, but can you
11 practically correlate the source of what goes into the
12 silvicultural guides to reveal to somebody whether or
13 not there is this background information or whether or
14 not it is just a matter of relying on the forester's
15 professional judgment?

16 MR. FREIDIN: Are you referring to the--

17 MR. KENNEDY: Well, we are speaking of
18 the --

19 MR. FREIDIN: --silvicultural ground
20 rules?

21 THE CHAIRMAN: Sorry?

22 MR. FREIDIN: Are you speaking of the
23 silvicultural ground rules?

24 THE CHAIRMAN: Yes.

25 MR. KENNEDY: I believe we are speaking

1 of the silvicultural ground rules. I believe Mr.
2 Campbell is speaking of those as an example along with
3 a variety of other pieces of information used in the
4 plan and, as such, I don't believe it would be
5 practical to list everything.

6 There were a number of interrogatories
7 asking for some specific information for the Red Lake
8 Crown and the response we gave there was that it was
9 quite voluminous and that people would have to come to
10 Red Lake to see that information. But I think it would
11 be somewhat impractical to even attempt to list it all.

12 THE CHAIRMAN: No, not to list the
13 information, but to list the fact that it exists, to
14 list the source of the information that is available.
15 I think that is what Mr. Campbell is after.

16 MR. KENNEDY: Well, certainly I think
17 that's, we have seen demonstrated in the Red Lake Plan,
18 as something that has been proven to be useful and I
19 believe it's...

20 THE CHAIRMAN: With respect to other than
21 area of concern information?

22 MR. KENNEDY: Yes. In Exhibit 814, Book
23 6, in Roman numerals (i) through to (v) there is a
24 very --

25 MR. CAMPBELL: Q. But isn't that area of

1 concern, Mr. Kennedy?

2 MR. KENNEDY: A. I don't believe --

3 Q. My heading on Book 6 is Specific
4 Areas of Concern.

5 A. It is headed Specific Areas of
6 Concern, but the information that is referred to is not
7 information that is solely restricted to areas of
8 concern. It is referring to part of the background
9 information that is available in the district that, in
10 this case, deals with the fish and wildlife aspects,
11 and I'm pointing out that that's an example of how that
12 kind of - in a very simple fashion - information of
13 that nature could be listed in response to the
14 Chairman's question.

15 I think something along that lines is
16 possible to make reference to the kind of information
17 that is available in each district office.

18 Q. And could that kind of listing be
19 done for the background information that is appropriate
20 for timber areas; that is, areas of normal operations,
21 whether you had soil surveys, whether you had done --
22 what kind of cruising you had done, whether there had
23 been field inspections, et cetera? That kind of list
24 could be provided for allocated areas as well?

25 A. I think it would be something that

1 would be beneficial, yes.

2 Q. And would you agree with me that it
3 would assist plan reviewers greatly if there was
4 sufficient listing of that sort of information so that
5 the plan reviewer could tell on a particular area of
6 geography the scope and quality of the information that
7 was available to guide the judgments?

8 A. It would certainly provide them with
9 an insight into the kind of information that is
10 available to those individuals to make their
11 professional judgment, yes.

12 Q. All right. And I think you have
13 already agreed with me that there are different kinds
14 of judgments depending on the kind of information you
15 have got available.

16 And my question is: Wouldn't that kind
17 of listing of background information, its availability,
18 its source, how it was developed, surveys, and so on,
19 wouldn't that allow the reviewer -- wouldn't that be of
20 valuable assistance to the reviewer in looking at the
21 judgments that have come forward? Don't you think that
22 would be valuable?

23 THE CHAIRMAN: I think he has answered
24 that.

25 MR. CAMPBELL: Has he said yes?

1 THE CHAIRMAN: I think so.

2 MR. CAMPBELL: Q. Have you said yes, Mr.
3 Kennedy?

4 MR. KENNEDY: A. I believe I have, yes.

5 Q. All right, thank you.

6 THE CHAIRMAN: We will take that as a
7 yes.

8 MR. CAMPBELL: Q. Now, Mr. Kennedy, I
9 think we are then to the point where you agree that it
10 would be useful to know what data from what sources was
11 available to the planning team when making decisions on
12 the unit. Are we agreed on that proposition?

13 MR. KENNEDY: A. I agree to the kind of
14 information available, yes.

15 Q. And its source?

16 A. Yes.

17 Q. And its scope?

18 A. I would want to have you clarify that
19 before I answered.

20 Q. Its geographical scope; that is, that
21 in fact if you have done soil surveys on the unit they
22 in fact relate to the area that is now allocated for
23 harvest rather than some other area?

24 A. That's when we start getting into the
25 level of practicality I would be concerned about. I

1 could see, say if a soil survey had been done for a
2 township or a portion of a township, I could see
3 listing that information.

4 I don't think it would be practical to
5 start correlating stand listings to soil survey
6 information. I don't think it would be practical to
7 correlate moose surveys done on a management unit to
8 stands that are allocated for harvesting.

9 Q. But wouldn't it be useful to indicate
10 that with respect to the area allocated for harvest,
11 the north -- that part that is in the map sheet such
12 and such, which is some general geographic description
13 there have been soil surveys done, and in that part
14 that's not there haven't been?

15 A. I think it would be appropriate to
16 list the areas that were surveyed, yes.

17 Q. Oh, okay. Well, that's fine. And
18 then it would be quite possible, using the maps, to
19 correlate two particular stands if one wanted to?

20 A. Yes. If a reviewer was that intent
21 on verifying prescriptions or retracing, I guess they
22 would have to go to some work to do that.

23 Q. All right. But I guess the concern
24 isn't so much how much work it is for the reviewer
25 necessarily at this point, it is just that -- we agree,

1 I take it, that it should be available to the reviewer
2 if he wants it in the plan?

3 A. I would ask you to be careful there
4 because now you are saying that the information is in
5 the plan and that simply is not possible.

6 Q. No, I'm not taking it any farther
7 than what I have talked about already.

8 A. Certainly the information has always
9 been and will remain to be available.

10 Q. The information itself, but I'm
11 talking about knowing that in fact that judgment is
12 based on a soil survey. I'm not asking for the soil
13 survey to go in, but that judgment is based on the soil
14 survey.

15 I think we have agreed that an indication
16 that actually tied it to the geography is useful in
17 that degree; have we not agreed on that?

18 A. Yes, I have agreed that the
19 information, listing information and the indication to
20 which geography the surveys, if there were surveys
21 applied, would be useful.

22 Q. All right. Now, Mr. Kennedy, can I
23 also assume -- just because of positions that, as I
24 understand it, MNR has taken on this matter previously,
25 can I also assume that if MNR was given a choice

1 between giving that kind of indication of the scope,
2 the nature and character of data available, giving some
3 indication of that, or having mandated minimum
4 background data requirements, you would prefer the
5 former to the latter?

6 A. Mr. Chairman, I would like to qualify
7 this answer in terms of, I would like to have an
8 opportunity to explore further the suggestion; but,
9 yes, I would tend to avoid a mandated minimum
10 requirement of information and would favour -- in lieu
11 of that I would favour an approach that required a
12 listing of the information that is available for the
13 professionals to make their decision.

14 Q. All right. Now, I would like -- this
15 is one I would like to canvass the panel on.

16 Mr. Groves, I will start with you.

17 A. Perhaps in all fairness you could
18 offer the panel a description of what you mean by
19 minimum information as many of the members were not
20 present during some of the earlier cross-examination.

21 Q. All right. I don't want to make
22 it -- I don't think I can off the top of my head sort
23 of pull a specific example for each particular interest
24 in the panel.

25 The concept is simply this: That in

1 order to understand the judgments, it could be argued
2 that one requires either a benchmark standard for
3 information in respect of making that kind of judgment;
4 that is, you must have this much information in order
5 to make judgments and take actions in a certain area,
6 that sort of a benchmark or minimum baseline
7 information requirement, the alternative approach --

8 THE CHAIRMAN: Would that be the similar
9 type of information, Mr. Campbell, as say found in the
10 Fish Habitat Guidelines?

11 MR. CAMPBELL: The Fish Habitat
12 Guidelines, I understand it, is the only example that
13 there are mandatory information requirements.

14 THE CHAIRMAN: You don't have the slope
15 information and certain other things, then you have to
16 allow a reserve of "x" amount.

17 MR. CAMPBELL: That's a good example,
18 absolutely.

19 THE CHAIRMAN: Okay.

20 MR. CAMPBELL: That's one approach. The
21 other approach is to make it clear that you want to be
22 able to exercise your professional judgment and in
23 putting out the results of that judgment you also make
24 it clear what the nature and scope of information was
25 that was available to you.

1 Q. Now, do I understand the Ministry's
2 position generally to be that it prefers -- it would
3 prefer the latter approach to having across-the-board
4 in all areas minimum background information developed.

5 Would that be fair from your point of
6 view, Mr. Groves?

7 MR. GROVES: A. Generally, yes. I
8 believe it is up to the professional to decide at what
9 level he or she cannot make that decision, and I think
10 the professional would be looking at the information
11 available, then deciding: Yes, I do feel comfortable
12 enough that I can professionally decide which direction
13 I should be heading, which decision I should be taking.

14 Q. All right. And in doing that, I take
15 it, you would refer an approach which said: And here
16 is what I had available in making that decision, as
17 opposed to one that said: I can't make that decision
18 unless I have this kind of data?

19 A. Do you want to repeat that just to
20 make sure I got it straight, please?

21 Q. Sure. I take it that in exercising
22 your professional judgment you would prefer an approach
23 that said: I exercised my professional judgment and I
24 did it on data of this scope, nature, like soil
25 surveys, I had this, I had that.

1 I am not asking you to put the results in
2 the plan, okay, just the kinds of scope, nature of
3 information you had available to you.

4 You would prefer that to an approach that
5 said: Minimum baseline data requirements to make a
6 decision on allocations of timber on soils of shallow
7 mineral soils are "x" and without "x" I can't make any
8 decisions about that area, I have to get that
9 information -- that minimum baseline information first.

10 Those are sort of two different
11 approaches. My question to you is: I assume you would
12 prefer the first approach?

13 A. I believe that would be correct, yes.

14 MR. FREIDIN: We are to assume for the
15 purposes of this question that, in your hypothetical,
16 those are the only two choices available?

17 MR. CAMPBELL: That's fine.

18 MR. FREIDIN: All right, thank you.

19 MR. CAMPBELL: That's fine.

20 Q. Mr. McNicol, given those choices of
21 either having some indication of the background
22 information, types, scope and nature available to the
23 professional and then the result of that professional
24 judgment being recorded or, alternatively, having
25 minimum background information requirements before a

1 decision could be made, would you agree that the first
2 approach is preferrable from a professional's point of
3 view?

4 MR. McNICOL: A. I would.

5 THE CHAIRMAN: Well, Mr. Campbell, let's
6 do it the other way. Is there any member of the panel
7 that disagrees with the former approach and, if so,
8 state your name, rank and serial number and why.

9 MR. DAVISON: I don't think I have a
10 serial number here, but...

11 MR. CAMPBELL: I may before this is over.

12 MR. DAVISON: My only concern, Mr.
13 Campbell, is that -- I think Mr. Groves was trying to
14 address it, and then I think you got into the two cases
15 you agree or don't agree with one or the other, and I
16 think you missed his point.

17 I think the professional having a lot of
18 years' experience on a particular piece of ground will
19 make a decision on what level and what extra
20 information he may require in order to make a decision,
21 and I think that's the point Mr. Groves made, and
22 depending on his experience he may require formal
23 surveys be carried out.

24 So my only concern with having a minimal
25 list of information required in formal surveys is it

1 gives a great deal of weight to these formal surveys
2 and the experience of a professional is somewhat ranked
3 a little bit lower, and so I disagree with having a
4 formal list.

5 And I just want to make it clear that the
6 professional judgment here is extremely important and
7 that surveys that he decides is necessary in order to
8 make a decision on what survey is required is extremely
9 important here.

10 MR. CAMPBELL: Q. Mr. Davison, if I have
11 created any impression that would disagree with any of
12 that, I want to dispel it right away. I understand Mr.
13 Groves' point perfectly.

14 All I am saying is that the professional
15 in making and exercising that judgment has some
16 obligation to set out the information that he has
17 available to him in making that judgment and he may go
18 out and gather more, and on very little information he
19 may make a decision that is perfectly good, perfectly
20 good based on his experience.

21 All I am saying is, and I would ask you
22 to agree, wouldn't you agree that it is kind of
23 important to know whether relying entirely on
24 experience and judgment supplemented by no hard data or
25 hard data, that's kind of helpful to know?

1 MR. DAVISON: A. Does experience
2 constitute hard data?

3 Q. Experience is not the equivalent --
4 that's the wrong word. Experience is not the same, for
5 instance in a soil survey, going out and doing a
6 detailed profile and soil analysis.

7 But, yes, I would agree with you entirely
8 that all of these things -- we want to take full
9 advantage of good experience and judgment and weight
10 definitely should be placed on experience and judgment,
11 you will get no argument from us on that.

12 MR. FLEET: A. I do --

13 Q. Just a minute. Do I take it that
14 with that clarification that you think it is also fair
15 that the professional in putting forward his judgment
16 based on experience should show what data, nature,
17 source, scope was available; not the particular data,
18 but just that I had available to me, I considered soil
19 surveys, I considered this, I considered that, and my
20 judgment after looking at all of that is thus and so.
21 The system would be capable of doing that?

22 MR. DAVISON: A. I don't have any
23 trouble with that. And we have always -- you know,
24 with any information source that we've had, we've
25 always been able to tell the public or any concerned or

1 interested person what source of information we had.

2 The only concern I have here is that we
3 are placing a lot more weight on those formal surveys
4 and that the experience and the professional judgment
5 here is by far the most important.

6 Q. I don't disagree with that at all,
7 and please don't read me as disagreeing. I am just
8 saying that it is important to understand the context
9 in which that judgment is being exercised and I assume
10 that you would take it -- you would agree with me that
11 that's fair too?

12 And because he doesn't have the
13 microphone, I will indicate on the record that indeed
14 Mr. Davison is agreeing with me. Is that correct?

15 A. For the record, yes.

16 Q. Thank you. Now, Mr. Fleet, you have
17 been anxious to hop in again. Welcome.

18 MR. FLEET: A. I wouldn't characterize
19 it as anxious. However, by and large I agree with you,
20 Mr. Campbell. There is some peril and perhaps even
21 some misleading, I would suggest, by indicating, for
22 example, that this survey and that survey has been
23 done; in terms of, that may give the reviewer or the
24 public some false sense of the accuracy of the
25 information.

1 And the example I will use is northern
2 region of the Ministry of Natural Resources. Because
3 of the high mineral potential and the large amount of
4 exploration activity and so forth, we have in that
5 region soil surveys for all management units. And so I
6 could tick off a box or indicate that with respect to
7 the application of silvicultural ground rules I had
8 available to me soil surveys, detailed soil surveys.

9 It has been my experience in the amount
10 of time that I have been there, very clearly, that it
11 is the local knowledge of the unit forester that is far
12 more precise than that soil survey information.

13 And so generally I agree with you, but I
14 think there are -- I think that it might convey some --
15 it could possibly convey some false sense of security
16 with respect to the information that has been provided.

17 But we could indicate that, yes, for all
18 the management plans in the northern region, for
19 example - and I think that carries through also down
20 into the northeastern region - soil survey information
21 is available, to use your example.

22 Q. For all the areas being allocated for
23 harvest?

24 A. For that entire region, except for
25 Moosonee District.

1 THE CHAIRMAN: But doesn't that just
2 reinforce the professional judgment of the forester; in
3 other words, it is an additional piece of information?

4 MR. FLEET: The professional judgment of
5 the forester may contradict the soil survey.

6 THE CHAIRMAN: Well, that may be, but all
7 you are indicating is, is that into the hopper of the
8 professional judgment is going something beyond just
9 the experience, there is also a soil survey. You may
10 not agree with it, it may be totally wrong.

11 MR. FLEET: Yes. I guess if you take it
12 back one step to the application of the silvicultural
13 ground rules. Now, we have indicated, for example,
14 there was a soil survey available and then in our
15 silvicultural ground rules we have a site description
16 and then that site will do this, prescription.

17 And if one were to try and correlate a
18 soil survey to the silvicultural ground rules, they
19 would be at odds in some cases, and that is where the
20 professional forester's judgment has entered into the
21 picture and their local knowledge versus a detailed
22 soil survey.

23 THE CHAIRMAN: Okay. But why hide the
24 fact there is a soil survey?

25 MR. FLEET: Pardon me?

1 THE CHAIRMAN: Why hide the fact there is
2 a soil survey?

3 MR. FLEET: I'm not at all suggesting
4 that we hide the fact there is a soil survey. I'm
5 indicating that there is a peril in terms of false
6 expectation of the use of that soil survey.

7 MR. CAMPBELL: Q. Mr. Fleet, surely when
8 the professional is putting together the plan and he
9 had a concern of that type, I mean a one-liner would
10 explain it; wouldn't it? You can say--

11 MR. FLEET: A. Likewise, Mr. Campbell.

12 Q. --we have soil surveys in place, they
13 were developed in the course of mining exploration and
14 professional judgment has been exercised with respect
15 to the application of that information.

16 MR. FLEET: A. Yes.

17 Mr. Chairman, to continue along on that
18 thought, I think that a larger one-liner with respect
19 to the idea that in the application of silvicultural
20 ground rules that information, plus photos, FRI,
21 operational cruising, a FEC as a preamble to Table
22 4.11, as opposed to having to provide a corollary or a
23 stand-by-stand basis, might indeed address your
24 concerns with respect to minimum information available.

25 Q. I just want to know, in making some

1 judgments about a particular piece of ground I am able
2 to tell what information you have. It seems perfectly
3 simple.

4 A. I would suggest that it becomes more
5 difficult on a piece of ground by a piece of ground
6 basis and it may be better addressed by a preamble
7 stating, for the area of the allocation we have photos,
8 FRI, soil surveys where appropriate, et cetera, et
9 cetera, available to us; but to --

10 Q. That's what we are talking about, the
11 area allocated?

12 A. I am getting this idea that you
13 almost want us to give you that information on a
14 stand-by-stand basis, acre-by-acre basis.

15 Q. You are going to force me into
16 introducing the flip side of my table that the Board is
17 not concerned about.

18 MR. FREIDIN: It's the concern of the
19 witness with that particular question. It seems to me
20 it makes a great deal of difference whether he is
21 suggesting something along the lines Mr. Fleet is
22 talking about or he is talking about doing this on a
23 stand-by-stand basis.

24 MR. CAMPBELL: No, I'm not asking for a
25 stand-by-stand breakdown, Mr. Chairman. And, Mr.

1 Fleet, if that's your concern I would like to alleviate
2 it.

3 Q. I would like -- I think surely it
4 would be fair, if there were fairly large areas
5 allocated in which you had a certain kind of survey
6 only for the north half, you would indicate that kind
7 of breakdown. That would be fair; would it not?

8 MR. FLEET: A. That could be done fairly
9 practically, yes.

10 Q. All right. Now, maybe -- I have a
11 whole series of questions then about where all this
12 could nicely fit into the Timber Management Planning
13 Manual. I think perhaps that topic I will leave to be
14 addressed in the course of the negotiating sessions
15 which we have talked about because that perhaps is not
16 the best use of the Board's time.

17 I have suggested one approach or I have
18 suggested one approach to dealing with this sort of
19 letting people know what in fact is the nature, scope
20 and type of background information available.

21 Has the Ministry itself considered any
22 approaches to doing that that it feels it would like to
23 share with us now? Perhaps I will knock off the back
24 end of the question. Has the Ministry--

25 MR. KENNEDY: A. Thank you.

1 Q. --itself considered any approaches to
2 that kind of problem?

3 A. Yes, we have explored a number of
4 ideas that have merit. Just as I indicated in my very
5 first answer to your question, that I think that some
6 of the underlying principles of your suggested table
7 has some merit, that we are not at this time really in
8 the position to share those with you.

9 Q. Why not?

10 A. Why not? The simple answer is that
11 we haven't had an opportunity to discuss them with the
12 full range of people that we look to to provide input
13 from their experiences.

14 Q. But, Mr. Kennedy, can I take it from
15 that that at least we can conclude this much: That the
16 Ministry itself is giving some consideration to this
17 matter and is not taking -- well, I think I have
18 already got all this answered. so that the Ministry
19 itself is clearly considering this problem?

20 A. Yes, I think that we are looking at
21 addressing it.

22 THE CHAIRMAN: Well, again, Mr. Campbell,
23 we think that you hit the nail on the head when this is
24 a matter that can be discussed in negotiations with the
25 Ministry, either put forward in terms of any amended

1 conditions that they may put forward, or put forward in
2 your own suggested conditions of approval and addressed
3 in that fashion.

4 MR. CAMPBELL: I understand your point,
5 Mr. Chairman.

6 Q. Mr. Kennedy, I take it though from
7 your last answer that the Ministry is not viewing this
8 as sort of a hypothetical matter, it is viewing it as
9 something that it is giving serious consideration as to
10 how best to address it?

11 MR. KENNEDY: A. In that case I can only
12 answer that there are a number of other individuals in
13 the province that I would consider to be experts in
14 timber management planning, those individuals are
15 currently involved in assisting planning teams and
16 preparing plans and in plan reviews and have gained
17 additional experience in implementing the process as it
18 is now, and I would look to the wisdom of those
19 individuals to guide us in any final decision and that
20 I alone cannot guarantee that the matter would be
21 addressed in a fashion that would be acceptable to you.

22 Q. Oh. Well, that's always too much to
23 hope for.

24 THE CHAIRMAN: No, Mr. Kennedy, I think
25 the question is simple. That Mr. Campbell and his

1 client have identified what they consider to be a
2 concern; that is, how do we convey information to the
3 public, to other reviewing agencies as to what type of
4 data, background information is available.

5 Now, the mechanism for putting forward
6 that kind of assistance to the public and other
7 reviewing agencies is now being considered by the
8 Ministry.

9 MR. KENNEDY: Yes.

10 THE CHAIRMAN: That is the answer?

11 MR. KENNEDY: That is correct.

12 THE CHAIRMAN: Okay. Now, whether or not
13 you come up with something that is acceptable to any of
14 the other parties, who obviously in terms of Mr.
15 Campbell would like to see some solution to that
16 problem, is debatable; it remains up for grabs.

17 You may come back and say: We have
18 looked at ways of doing this and we cannot come up with
19 any practical way of doing it at all; so, therefore,
20 our decision is we are not going to do it. That can be
21 dealt with by Mr. Campbell in his case and the Board
22 could deal with that in its ultimate decision.

23 On the other hand, you may come back with
24 a suggestion to say: Here is how we think we can
25 convey that information and here is what we can include

1 in plans or other documents. And then Mr. Campbell
2 again can look at that and perhaps either be happy with
3 it or suggest alternatives in terms of his own
4 conditions of approval or in terms of calling his own
5 evidence if he wants, or any of the other parties can
6 do the same. And, again, the Board can deal with that
7 ultimately in its decision.

8 But I think what he wants to know at this
9 time is, is that you are considering addressing the
10 problem, you don't have the answer yet, and the Board
11 and the parties will be advised when you have come up
12 with your suggested solution, if there is one. Is that
13 fair?

14 MR. KENNEDY: Yes, it is.

15 MR. CAMPBELL: Q. All right. And just
16 so we are clear, I canvassed the panel on two kind of
17 general approaches and had a preference from amongst
18 those two. I don't want to be taken as saying that if
19 there is some other more sensible approach than those
20 two, don't feel at all reluctant to convey it to us
21 that way. I think all we are looking for is a sensible
22 solution to the problem; okay?

23 MR. KENNEDY: A. Yes.

24 Q. And the sooner the better, because it
25 will save us a lot of time in developing our terms and

1 conditions. But that's perhaps just a plea to the
2 panel and not a question.

3 THE CHAIRMAN: Do you have any idea when
4 this might be forthcoming, Mr. Kennedy, in terms of
5 timing?

6 MR. KENNEDY: At this time I do not, no.

7 MR. CAMPBELL: Okay. Mr. Chairman, I
8 want to turn now to a completely different area, you
9 will be relieved to hear, and it has to do with
10 traceability. We have had some discussion of
11 traceability particularly in relation to area of
12 concern planning, documenting decisions and so on.

13 I think the focus of much of what I want
14 to talk about is what I will call silvicultural
15 traceability, relates much more to areas of normal
16 operations than to the specific area of concern
17 planning process.

18 Q. Now, gentlemen, in terms of
19 traceability of silvicultural decisions in areas of
20 normal operations, would you agree with me that at the
21 management unit level what this involves is taking --
22 is being able to trace the combination of the
23 silviculture guides and the experience and judgment of
24 the forester, which are combined into tracing that
25 judgment based on that science, through the

1 silviculture ground rules, through to the stand
2 listings and on to the actual piece of geography on the
3 allocation maps.

4 That's what I am referring to when I
5 speak of silvicultural traceability, all right? Can we
6 sort of take that as a starting point?

7 MR. KENNEDY: A. I'm not quite sure how
8 the stand listings fit in there, but I would agree with
9 you that they would support the allocation maps.

10 Q. Well, maybe I have got a little chart
11 here that perhaps I will hand out now and we can deal
12 with that. I can show you the concept that I am
13 talking about because I think the Red Lake Plan, by the
14 way, does it very well.

15 MR. FLEET: A. There is one other factor
16 or two more factors that could fit into your puzzle,
17 Mr. Campbell. The access to the regional silvicultural
18 specialist and the access to the technology and
19 development units to complement the forester's access
20 to silvicultural guides in the development of a plan.

21 Q. Yes, I am dealing with that as the
22 experience and judgment of the forester part of it,
23 there needs to be all of those forester's
24 considerations combined with the guides to develop the
25 silviculture ground rules. It is a point you've

1 made -- I think the panel has made several times, and
2 it certainly is one that we agree with.

3 MR. KENNEDY: A. I take it, Mr.
4 Campbell, you are also putting into that experience any
5 other information that may be available to the forester
6 in the district files?

7 Q. Of course. That's all -- the
8 experience, judgment, all of those things go into
9 making up the silviculture ground rules, as I
10 understand it.

11 A. Fine.

12 THE CHAIRMAN: This will be page 7 of
13 Part 1 of Exhibit 911.

14 MR. CAMPBELL: Q. Now, what I want to do
15 is just to try and illustrate the concept that I am
16 talking about and run you vertically through the chart
17 first.

18 And we have talked about one aspect of it
19 which is the link from the silviculture guides to Table
20 4.11, and we have agreed that all of that local
21 information and experience that's exercised by the
22 forester is important in combination with the
23 silviculture guides to get to Table 4.11; is that
24 correct?

25 MR. KENNEDY: A. That's correct. And

1 when you do say 'experience', I have to say to you that
2 includes a variety of other sources of information
3 within the district timber management files for --

4 Q. Well, Mr. Kennedy, perhaps we can
5 shorten this by simply saying: I am prepared to
6 concede that what is in the silviculture guides should
7 be combined with all of the wisdom, information and
8 experience of the whole Ministry of Natural Resources
9 in order to get to Table 4.11. That would be perfectly
10 satisfactory to me, all right? With that presumably
11 you can agree?

12 A. Yes.

13 Q. Thank you. And Table 4.11 is the
14 silviculture ground rules for normal operations and
15 that is found in the Timber Management Planning Manual
16 which is Exhibit 7 at page 65; correct?

17 A. Yes.

18 Q. Now, when we are looking at the Red
19 Lake Plan, and we will get to some of the specifics of
20 it first, there are stand listings as well which are
21 called for by the appendix of the Timber Management
22 Planning Manual and the instruction for that is found
23 at page 109 of the Timber Management Planning Manual as
24 well; correct, the stand listings?

25 A. The stand listings are required and

1 the kind of information that is expected to be found in
2 those stand listings is also found on page 109.

3 Q. Exactly. And we are going to come to
4 the specific information and the particular Red Lake
5 example and some other examples in a moment, but the
6 basic requirement for the appendix is already in the --
7 -- or, for stand listings is already in the Timber
8 Management Planning Manual; correct?

9 A. You are correct.

10 Q. And then there are a set of maps
11 required called allocation maps and those are FRI map
12 sheets showing the areas allocated and they are called
13 for also by the Timber Management Planning Manual,
14 Exhibit 7, page 109; correct?

15 A. Correct.

16 Q. Now, what I also show on traceability
17 on this little chart is the bar charts that are shown
18 on the examples we had from Red Lake and, as you have
19 testified, as it turns out, they are not required by
20 the Timber Management Planning Manual at this point in
21 time; is that correct?

22 A. That evidence has been given by this
23 panel, yes.

24 Q. All right. And I want to -- we will
25 come back and discuss those bar charts in just a

1 moment, but perhaps since we are going to be referring
2 to it fairly regularly I would like to add as pages 8
3 and 9 to Part 1 of Exhibit 911 copies of pages 109 and
4 110 of the Timber Management Planning Manual and
5 perhaps they can be distributed now.

6 MS. SEABORN: (handed)

7 THE CHAIRMAN: Thank you.

8 MR. CAMPBELL: Mr. Chairman, there are
9 several other requirements in these appendices that we
10 will be referring to, we will come back to them, but
11 the two I will be referring to immediately, as I say,
12 are the stand listings and the allocation maps.

13 The stand listings are called for I think
14 under the, I think it is the seventh point down under
15 the heading appendices, the seventh indented point, and
16 the FRI map sheets are the sixth indented point. They
17 will be the ones I will be focusing on for the moment.

18 Q. Now, Mr. Multamaki, I would like to
19 take an overview of how this information flow hangs
20 together based on the Red Lake Plan, and I take it that
21 in preparing -- I take it that you used information
22 such as that contained in the silviculture guides plus
23 all of that local knowledge and experience and Ministry
24 experience, all of that is combined in the preparation
25 of Table 4.11 called for by the Timber Management

1 Planning Manual; is that correct?

2 MR. MULTAMAKI: A. Yes.

3 Q. I'm sorry, I don't think your
4 microphone is on.

5 A. Yes, plus a number of other items
6 that I think you've covered under the entire wisdom of
7 the Ministry of Natural Resources.

8 Q. All right. But all of that then
9 is -- the theory is that that is all reflected then in
10 Table 4.11 and in the Red Lake Plan you distilled that
11 information down to the silviculture ground rules;
12 correct?

13 A. Yes, it was distilled down to
14 represent the local situation on the Red Lake Crown and
15 be representative of the, I guess, the areas or the
16 silvicultural areas that would be encountered.

17 Q. All right. Well, for much of my
18 cross-examination in this whole general area I am going
19 to be focusing on the spruce working group as an
20 example.

21 MR. CAMPBELL: And, Mr. Chairman, I would
22 ask now to have distributed to the Board a series of, I
23 think it is seven pages, which constitutes that portion
24 of Table 4.11 from the Red Lake Plan that is relevant
25 to the spruce working -- the black spruce working

1 group.

2 The pages have on them the source in
3 other information, that's Exhibit 814, Book 1, page 53,
4 and if the Board would be so kind as to number these
5 pages 10, 11 -- I am sorry, it starts at 11.

6 THE CHAIRMAN: It starts at 10?

7 MR. CAMPBELL: It starts at 10. 10, 11,
8 12, 13, 14, 15 and 16. It will be those pages of part
9 1 of Exhibit 911.

10 Q. Now, Mr. Multamaki, I would just ask
11 you to confirm that those in fact are the pages taken
12 from that exhibit and represent Table 4.11 for the
13 black spruce working group for the Red Lake Crown unit;
14 is that correct?

15 MR. MULTAMAKI: A. Yes, they are, other
16 than the writing on the top that I assume you have put
17 in.

18 Q. That's my scrawl. Thank you. Now,
19 going across that document what we see is an FRI WG, I
20 assume that's FRI working group; is that correct?

21 A. Yes, that's FRI working group.

22 Q. All right. And looking at page 10
23 you have got an entry under that Sb1; is that correct?

24 A. Yes.

25 Q. The Sb is black spruce?

1 A. Yes, that's correct.

2 Q. And, as I understand it, the 1 is a
3 number assigned by you simply to give a distinction to
4 that site description that is associated with very
5 poorly drained organic soils wet?

6 A. Yes. What you are referring to, the
7 numbers are Sb1, 2, 3, 4 and so on, they simply denote
8 the different types.

9 Q. All right. And, as I understand it,
10 the number part of that FRI working group entry is
11 simply -- the forester lists the site descriptions in
12 whatever order the forester wants and just assigns a
13 number. That's what you have done here, there is no
14 particular magic to the 1, 2, 3, 4, 5, et cetera?

15 A. No, I think the term you are looking
16 for is, I did that to make it administratively simple.

17 Q. Excellent, excellent. But my point
18 is that there is no particular order to that, it just
19 gives it a classification?

20 A. Yes. However, for organizational
21 purposes, and again I guess for administrative
22 purposes, you will notice that the site descriptions
23 tend to go from the organic soils which are denoted
24 under Sb1 through deep mineral soils to Sb7 which would
25 be the shallow mineral soils. So there is I guess an

1 organizational method with which the 1 through 7 groups
2 are listed.

3 Q. And you developed that for your unit?

4 A. Yes, that's correct.

5 Q. And is it also fair to say that we
6 could look at other units and your Sb1 might be someone
7 else's Sb5?

8 A. Or, conversely, Sb1 may not exist on
9 that unit.

10 Q. Yes. But if the same soil
11 description, same site description did exist, it may or
12 may not be Sb1 to that forester, it might be Sb3?

13 A. That's correct.

14 MR. CAMPBELL: Now, with that site
15 description, I then want to take the Board to stand
16 listings and we have reproduced stand listings for
17 normal operating areas, and there are seven pages of
18 those in the Red Lake Plan, and I guess somewhere the
19 whole Red Lake Plan has an exhibit number, but I am
20 just going to ask you to confirm that these are in fact
21 the stand listings because I don't have in front of me
22 the Red Lake Plan.

23 Oh, yes, I do, right on the bottom of the
24 stand listings that are being handed out. So there we
25 are. If we could get those distributed, then I will

1 refer to the particular exhibit number.

2 I think it will pick up at page 17, Mr.
3 Chairman, and go through to page 23.

4 Q. Have you got those pages numbered,
5 Mr. Multamaki?

6 MR. MULTAMAKI: A. Not yet, I'm working
7 on it. Okay.

8 Q. Okay?

9 A. That's fine.

10 Q. If we could go then to page 20 and if
11 you start up -- you see going up the right-hand column
12 from the bottom you see Sb3, Sb3, Sb3. Those are the
13 references to Table 4.11; are they not?

14 A. Yes, they are.

15 Q. All right. If we could go up please
16 to the first Sb6 which is about the eighth entry up, do
17 you see there is two -- there is Sb6 entries?

18 A. That's just above the Pj2 entry?

19 Q. Exactly. And then if we trace those
20 across to the left under the stand column, which is the
21 second or third column in, you see 181 and 184?

22 A. Yes.

23 Q. And you have a base map number
24 showing against that--

25 A. That's correct.

1 Q. --as well which is I think 508941?

2 A. Right.

3 Q. And if you turn around behind you, as
4 I understand it, that's base map 508941?

5 A. That's correct.

6 Q. And you can go to the map and on the
7 shores of Suffel Lake you can find stands 118 and 184;
8 is that correct?

9 A. Yes, that's correct.

10 MR. CAMPBELL: And could we have an
11 exhibit number, please, Mr. Chairman, for that base map
12 which I do not believe yet has an exhibit number.

13 THE CHAIRMAN: Okay. That will be
14 Exhibit 914 I believe.

15 MR. CAMPBELL: Q. Now --

16 MR. FREIDIN: That will be base map
17 508941.

18 ---EXHIBIT NO. 914: Base map 508941.

19 MR. CAMPBELL: Q. Now, Mr. Multamaki,
20 you would agree with me, I take it, that what we have
21 simply demonstrated in that little exercise is that it
22 is possible, using the information in the Red Lake
23 Plan, to go from a particular silviculture prescription
24 in Table 4.11 right through to where that prescription
25 applies on the ground; is that correct?

1 MR. MULTAMAKI: A. Yes, that's correct.

2 Q. All right. Now, on your allocation
3 maps you have -- in addition to the stand numbers, you
4 have bar charts. I take it you are quite familiar with
5 the bar charts?

6 A. Yes, I am.

7 Q. And you introduced those bar
8 charts -- the discussion started at Volume 137 of the
9 transcript, September 19th, at page 23307 and 308. Are
10 you familiar with those questions from your counsel?

11 A. Once I find them I will be.

12 Q. If you look halfway down 23308, you
13 have explained what the bar charts are.

14 A. Right.

15 Q. And Mr. Freidin asked you:

16 "And all...of these maps, will they be
17 available at public information centres?"

18 You said:

19 "Yes, all three of these maps were
20 available at the public information
21 centre."

22 "Q. Would they be available for
23 review by the public if they come into
24 the district office?

25 A. Yes, they would.

1 Q. And would there be somebody to
2 explain questions about the bar charts?

3 A. Yes, there would be somebody to
4 explain them."

5 Do you recall giving that testimony?

6 A. Yes, I do.

7 Q. And then some two weeks later in
8 Volume 142 at page 24148 to 162 you came back and you
9 indicated that you had a concern about those, that they
10 might be misleading. Do you recall giving that
11 testimony?

12 A. Yes, I do.

13 Q. All right. Now, I want to deal with
14 those concerns raised at that portion of your
15 testimony, but first I would ask you to agree: Isn't
16 it fair to say that whereas it is possible for someone
17 who is looking at the allocation maps or looking at
18 4.11 to either get to the prescriptions without the bar
19 charts -- let's take it from the one way first, from
20 the maps to the prescriptions.

21 They can do that under the Red Lake Plan,
22 they walk in, they find the piece of geography that
23 they are looking at, they look at the stand number,
24 they go to the stand listings, they go to Table 4.11
25 and they can find the prescription. They can do all of

1 that without the bar charts; is that correct?

2 A. That's correct.

3 Q. And, similarly, if someone was
4 interested in what you are doing on shallow soils, they
5 can go and look at the prescription, go through the
6 stand listings and find on the map where that
7 particular piece of geography is?

8 A. Yes.

9 Q. And so we have traceability between
10 those two points?

11 A. Certainly, and understandability I
12 would say as well.

13 Q. Yes. And would you agree with me --
14 I want to deal with your concerns about the bar charts
15 being misleading separately.

16 A. Okay.

17 Q. All right. I put that aside for the
18 moment. Just in terms of physically, if a member of
19 the public -- Mr. Kennedy has told us time and time
20 again that the members of the public come in and they
21 really like going to the maps, perfectly
22 understandable. Is that your experience too?

23 A. Yes, in fact it is.

24 Q. And in fact when they come into the
25 maps of the Red Lake Plan, they can actually see what

1 your expectation was at that time as to what would be
2 done on the ground by looking at the bar charts; could
3 they not?

4 A. Yes, they should. However, I should
5 point out that that has never occurred. Somebody from
6 the public has not come in and said: Let's see your
7 SGRs, let's follow them through and see what you are
8 going to do silviculturally on a piece of ground.

9 Q. Sure, and that may be because in your
10 case you have the bar charts and they didn't have to
11 worry about it, they had the information handy?
12 Isn't that also a possibility?

13 A. I would like to think that maybe that
14 is.

15 Q. Good. Yes, I think they are a great
16 idea, that's the whole point. But as it is, they are
17 exactly right on the map that the public immediately
18 goes to; isn't that correct?

19 A. Yes, they are.

20 Q. Now, the the first concern you raised
21 about these charts was that it really consisted only of
22 your best expectation as to what the operations were
23 going to be, but in fact that other things could happen
24 on the ground. Is that a fair summary?

25 A. Yes, that's a fair summary. I think

1 in the statement it was -- or when that took place it
2 was recognized that there were a great number of
3 outside factors, both controllable and uncontrollable,
4 that could have taken place to effect the actual
5 physical operations.

6 Even though the estimate was to prescribe
7 a specific series of events, a great number of factors
8 could have come into play or may come into play that
9 will change that.

10 Q. But your testimony has also been
11 quite explicit; has it not, that what happens on the
12 ground has to take place within the context of the
13 silviculture ground rules? Both yourself and Mr.
14 Kennedy were quite explicit about that; is that
15 correct?

16 A. Yes. Now, there is I guess another
17 factor in here. Provided that the silvicultural ground
18 rules, as I identified them in the stand listings, were
19 in fact correct, that we don't get out there and find
20 out that in fact that particular stand is not in fact
21 representative of, say, an Sb6, it was an Sb5. There
22 may be changes within that.

23 Q. Sure. You wouldn't want -- having
24 estimated that a stand was going to be Sb6, if you got
25 out to the ground and it turned out to be completely

1 different soil type, you wouldn't want to be stuck
2 slavishly applying an Sb6 prescription obviously?

3 A. No. Reasonably if it is, say, an Sb3
4 or an Sb2 we would simply -- we should be able to
5 change from an Sb6 to an Sb3 and adhere to those
6 silvicultural ground rules for that.

7 Q. You then say: Oh, this falls into
8 the category of Sb2, whatever it is, here is the
9 prescriptions that go with that, but you would still be
10 operating within the general limits of the
11 silvicultural ground rules?

12 A. Yes. The reason I'm hesitating is
13 that there may be areas where, for example, the -- I
14 guess the academic society or whatever may want to do
15 specialized work or the TDU and so on, and it may in
16 fact not follow what is in the silvicultural ground
17 rules and that's recognized that there may be variances
18 because of that through experimental work and so on.

19 Q. All right. But we are talking about
20 normal operations; aren't we?

21 A. Yes.

22 Q. So with the understanding that we are
23 talking about normal operations, it is still correct to
24 say you are within the realm of the silvicultural
25 ground rules?

1 A. Sure.

2 Q. Now, let's just understand what has
3 to go in those silviculture ground rules, and I would
4 ask to be distributed page 66 from the Timber
5 Management Planning Manual which sets out the
6 instructions for Table 4.11.

7 MS. SEABORN: (handed)

8 MR. CAMPBELL: Q. Now, I guess this is
9 page 24, and if I can take you down to the last line
10 of -- I guess there are really three particular areas I
11 want to draw your attention to, having to do with how
12 one sets out these silviculture ground rules.

13 The first is the last sentence of item 5.
14 Item 5 deals with the silviculture system and it
15 indicates in item 5 that:

16 "Guidance for which silviculture system
17 to use is given in the provincial and
18 regional silvicultural guides for the
19 working groups."

20 You are familiar with that instruction?

21 MR. MULTAMAKI: A. Yes, I am. I should
22 also point out that with respect to the spruce example
23 you have given here we didn't have access to the new
24 spruce guidelines. That's just a comment.

25 Q. No, I understand that. They weren't

1 out at the time I think you did this; is that correct?

2 A. That's correct.

3 Q. Are there still regional
4 silvicultural guides?

5 A. When I was with the -- still with the
6 Ministry a year and a half ago, there were I guess
7 regional -- there was regional direction. Now, I'm not
8 sure if that covered all regions and so on, and I'm not
9 sure of the complete format that it was in, if the
10 other regions had it.

11 Q. Well, what is referred to here in the
12 timber management plan here, regional silviculture
13 guides? Perhaps that's the simple way to ask the
14 question. Can anybody tell me?

15 MR. KENNEDY: A. I can honestly say that
16 I don't know specifically what was referred to.

17 Q. Does anybody else on the panel know
18 what was referred to? I mean, this is the manual, it
19 is current.

20 MR. FLEET: A. Mr. Campbell, I don't
21 know -- well, it's sort of current. I don't know --

22 Q. Well, just a minute. It is either
23 current or it's not. Is this page the current page
24 being used in the manual?

25 A. In that sense it's current. In terms

1 of regional guides --

2 Q. But is there some change to it that
3 we don't know about?

4 A. Not that I'm aware of, but there
5 is -- there is no change that I'm aware of, sir.

6 What I was going to try to do was attempt
7 to answer your question with respect to what are
8 regional guides. I imagine the use, the precise use of
9 the word guide as it has come to be meaning in this
10 hearing is quite probably not what was meant at the
11 time that this particular Timber Management Planning
12 Manual was authored with respect, sir, to regional
13 guides.

14 I have worked in a variety of regions and
15 I have been subjected to regional rules with respect to
16 silviculture, but I don't think that I could, or I
17 don't think any member of the panel could put forward
18 to you, sir, a formal regional guide.

19 I will give you an example. When I was
20 in eastern region, the regional guide was that you were
21 not allowed to row thin in red pine. That's an area
22 that's outside of the area of the undertaking, but the
23 regional forester in his wisdom suggested that the
24 practice in that region, because of economics and so
25 forth, he did not want to pay for the non-commercial

1 thinning -- row thinning of red pine, and so there was
2 a rule that we abided by in that region. I couldn't
3 present to you, sir, a formal book, I might not even be
4 able to present to you a letter suggesting that, but I
5 think that might be what is referenced here by the use
6 of regional guides.

7 Q. I'm sorry, I may have misheard you.
8 Did you say that there was a region that was outside
9 the area of the undertaking?

10 A. When I worked in eastern region,
11 except for two management units -- when I worked in
12 eastern region, except for two management units
13 within that particular region, that is by and large
14 outside the area of the undertaking because of the lack
15 of Crown land, if you would, we did have a forestry
16 program but we were managing patent land, agreement, WI
17 properties and that sort of thing.

18 We had a menial silvicultural guide that
19 said thou shall not do this. But it's not -- I don't
20 think anybody could present to you a book with a
21 Ministry logo or even a regional title on it saying
22 these are the guides.

23 THE CHAIRMAN: Okay. Mr. Campbell, is
24 the point of this whole line of questioning going to
25 end up being a suggestion that notwithstanding Mr.

1 Multamaki's concerns the use of the bar charts put on
2 the various base maps would be helpful.

3 MR. CAMPBELL: Of course, Mr. Chairman,
4 but I want some background to that obviously to support
5 a position and, with respect, it doesn't achieve the
6 same thing simply to move -- I mean, it is quite
7 obvious that's where I am going. I would like to
8 develop the evidence in support of that position, if I
9 might be permitted.

10 THE CHAIRMAN: Go ahead, but I can assure
11 you that the Board is not getting a lot out of this.
12 But, proceed.

13 MR. CAMPBELL: Mr. Chairman, I think I
14 have to respond to that.

15 THE CHAIRMAN: Very well.

16 MR. CAMPBELL: The Board is going to have
17 a specific suggestion put to it, this panel has
18 testified as to particular reasons why it feels that
19 suggestion should not go ahead.

20 Mr. Multamaki used it, they suggested it
21 when they went through it in direct, two weeks later in
22 direct they came back and said: Oh, it's misleading.

23 Now, I think it is perfectly proper to
24 test the reasons why it is misleading. In order to do
25 that, the Board has to have an understanding of what is

1 required in Table 4.11 in order to understand the
2 suggestion that I am making, and I would ask the Board
3 not to be too quick to jump to its conclusions as to
4 why a particular ground is being laid for a particular
5 suggestion.

6 If the Board -- if I am to have any hope
7 of persuading the Board that a particular suggestion is
8 practical or useful, I need to extract from these
9 witnesses their views on the very items that they said
10 are misleading. It may be that there is quite a simple
11 solution to this concern and, with respect, I think it
12 is only proper to test that.

13 THE CHAIRMAN: Go ahead.

14 MR. CAMPBELL: Q. Now, Mr. Multamaki, I
15 then want to direct your attention to paragraph 6 on
16 what is now page 24 of Part 1 of 911. Item No. 6
17 indicates that:

18 "The method of harvest is to be entered
19 and that where there are options
20 they are to be given in order of
21 preference with the conditions that will
22 be used to guide the choice."

23 Are you familiar with that instruction?

24 MR. MULTAMAKI: A. Yes, I am.

25 Q. And similarly under item No. 7 in

1 Table 4.11, you are required to enter the renewal
2 options in order of preference and with the conditions
3 that will be used to guide the choice. Are you
4 familiar with that instruction?

5 A. Yes, I am.

6 Q. All right. Now, one of your concerns
7 was in relation to your own resource managers at MNR
8 that putting the bar charts on might mislead your own
9 resource managers; correct?

10 A. Yes, there is that element.

11 Q. And, Mr. Kennedy and Mr. Bisschop,
12 did I not understand your evidence to be that all of
13 the planning team members were being trained in the
14 timber management planning process, that it wasn't
15 restricted just to the foresters; is that correct?

16 MR. KENNEDY: A. That's correct.

17 Q. Now, wouldn't the resource managers
18 then as a result of training be aware of the
19 alternatives available according to the instructions on
20 this chart and, therefore, be able to cope with the
21 possibility of being mislead?

22 The simple question: Isn't that matter
23 covered in training, the instructions as to how to deal
24 with this?

25 A. I would say that they are generally

1 aware, yes.

2 Q. All right. They have been trained on
3 it, though; have they not?

4 A. On that I would have to say no, in
5 that we do not train biologists, for instance, or
6 individuals from the Lands Branch to be intimately
7 familiar with every aspect that the professional
8 forester must cover in preparing the plan.

9 Q. All right. Wouldn't they be aware
10 that alternative prescriptions may be considered?

11 A. Yes.

12 Q. Thank you. And we have seen -- well,
13 to the extent that they have absorbed that training,
14 they won't be misled because they know that there are
15 alternatives?

16 A. Correct.

17 Q. All right. Now, let's deal -- that
18 takes care of the resource managers. Let's deal with
19 the members of the public who you, Mr. Kennedy, have
20 said come in and go right to these maps.

21 Now, without the boxes we have seen how
22 you have to get -- if you were interested in what was
23 going to happen on a particular piece of ground without
24 the boxes, we have seen; have we not, what you have to
25 do to get to that information in Table 4.11; have we

1 not?

2 A. Yes, we have.

3 Q. And we have got to go back through
4 the stand listings and then to Table 4.11; correct?

5 A. Correct.

6 Q. Also you confirmed that whatever has
7 to be done has to be within the silviculture ground
8 rules. I guess what I am asking you is: Can you
9 confirm that the concern with respect to misleading the
10 public is not with respect to anything new being done,
11 you are just worried about creating an impression that
12 only one prescription is available to be followed.
13 Have I understood your evidence correctly?

14 Mr. Multamaki, that was the concern?

15 MR. MULTAMAKI: A. That's the major
16 concern.

17 Q. All right. Now, Mr. Kennedy, you
18 would agree, I take it, however, that having that
19 prescription on there responds well to the way the
20 public deals with these maps when they come into the
21 information centre; that is, it's a heck of a lot
22 easier for the public to look at the map and the bar
23 chart than it is to learn first how to get back to the
24 specific prescription or, secondly, to actually do it?

25 MR. KENNEDY: A. Yes, I would say that's

1 the case.

2 Q. All right. Now, it seemed to us that
3 it was perhaps not the best solution to make the public
4 work through the stand listings to Table 4.11 if they
5 were interested what was going to be happening on their
6 area of the map. Wouldn't it be better just to tell
7 the public that options may be considered?

8 And I guess what we have done is drafted
9 up a little note which we suggest you might put on the
10 allocation maps and perhaps that could be distributed
11 and we could discuss it.

12 MR. CAMPBELL: And that would be page 25,
13 Mr. Chairman.

14 MS. SEABORN: (handed)

15 THE CHAIRMAN: Thank you.

16 MR. CAMPBELL: Q. Mr. Kennedy, with
17 respect to the note, I will just read it out. What it
18 says is that:

19 "The bar charts...show the preferred
20 harvest, renewal, tending and maintenance
21 option for each area allocated for
22 harvest. Other options which may be
23 used can be found by checking the
24 appropriate FRI/working group code..."
25 and it gives an example:

1 "...in Table 4.11 of the timber
2 management plan. Table 4.11 also shows
3 the conditions which will be used to
4 guide the choice."

5 Now, wouldn't that note both preserve the
6 flexibility which you require while, at the same time,
7 giving the public an easily available way of finding
8 out what your expectation is as to what you will be
9 doing on the ground?

10 Wouldn't this sort of solve the problem,
11 and I would like to suggest it to you as an alternative
12 to not providing any bar charts at all?

13 MR. KENNEDY: A. I would say in the case
14 of, if this note had been attached to the Red Lake
15 Plan, it would have provided the additional
16 information.

17 If I had an opportunity to review it
18 before it was added, I would have added in areas
19 allocated for harvest, renewal and maintenance. And if
20 I was looking at it from the point of: Would I use it
21 in a different plan, I would want to explore the idea
22 of trying to communicate the idea of options to the
23 public and I may stay away from bar charts in favour of
24 another method.

25 Q. All right.

1 A. But I would agree that the concept of
2 making that information more readily available to the
3 public as opposed to going through the stand listings
4 is something worth exploring.

5 Q. And you would agree that some kind of
6 note like that, if put on the map, would obviate the
7 concern of the expectation that that's the only thing
8 that's available. You would agree with that?

9 A. Only to a point, and I would like to
10 pursue that, but only if you would allow me.

11 Q. I would be delighted.

12 A. We have one other underlying concern
13 which we have not expressed I believe to date and that
14 is the connection between the change of options and the
15 necessity to amend the plan. And this to us is a very
16 fundamental concern that we have because of the --
17 first of all, the information base that we use and the
18 professional judgment in making the decision is one
19 that we feel is ours, we are best able to do that as
20 professional foresters and trained technical staff, and
21 we would feel that it would not be required to amend
22 the plan if I chose a particular different option from
23 those that were approved in the silvicultural ground
24 rules. If you were --

25 Q. Now, just a minute. Are you talking

1 about the kind of concern that Mr. Multamaki raised
2 before which was that there might be a different site
3 description and, therefore, a different set of
4 prescriptions might apply. Is that what you are
5 referring to?

6 A. I believe we are talking the same.
7 At the time of implementation of the plan it follows to
8 have, on one hand, a map that indicated Sb3
9 prescription. I arrived on the site and determined
10 that the site was not an Sb3 but was an Sb2 and I want
11 to undertake a different kind of treatment. It would
12 still be within the approved silvicultural ground rule
13 prescriptions and I would want the -- I would want to
14 be able to apply that new prescription without having
15 to amend the plan, to inform somebody that the code on
16 the map was not -- the prescription according to the
17 code on the map was not being implemented.

18 Q. Okay. So to take that example, if
19 you found you had Sb6 on the map, you got on the ground
20 and you found it was really Sb2, you would want to be
21 able to apply the Sb2 prescriptions and the
22 alternatives within them?

23 A. And I would want to be able to do
24 that in a timely fashion because of the other
25 silvicultural package that is tied into that

1 prescription--

2 Q. All right. Now --

3 A. --and I would not want to be required
4 to take that into the public forum through the
5 administrative purpose. So I don't think it is
6 necessary to do that.

7 Q. Well, I believe you raised that in
8 your second round of questionings on this matter from
9 Mr. Freidin and --

10 MR. FREIDIN: Yes. It was actually
11 outlined by Mr. Multamaki commencing I guess at the
12 bottom of page 24159 and goes over to 24162, and the
13 Chairman got involved in that discussion and basically
14 it is consistent -- I think it's consistent with what
15 Mr. Kennedy is saying.

16 MR. CAMPBELL: It is exactly consistent.

17 Q. But we are not talking about -- Mr.
18 Kennedy, you are not disputing Mr. Multamaki's
19 proposition that as long as we are within the general
20 frame work of the silvicultural ground rules no
21 amendment would be required; that's your view, I take
22 it?

23 MR. KENNEDY: A. That's correct.

24 Q. All right. And that is not a
25 proposition with which we have any dispute whatsoever.

1 A. You may not.

2 Q. I'm here representing a particular
3 view, I am not trying to represent everybody.

4 You would agree that on the understanding
5 that you could make that kind of switch between, using
6 Mr. Multamaki as an example, from Sb6 to Sb2, that this
7 note on the allocation map with that kind of
8 flexibility of not requiring an amendment would make it
9 more helpful to both reviewers looking at those maps
10 and the public, rather than having to work backwards
11 through the stand listings to Table 4.11, at least for
12 an initial -- conveying that information as to what the
13 expectation was, given that we understand that it might
14 change. Is that fair?

15 Just a minute. Mr. Kennedy, is that
16 fair?

17 A. Yes, a note of that nature would be
18 helpful, but I want to remind you of my comment that
19 using bar charts I may choose -- or I would like the
20 opportunity to explore other methods of displaying that
21 information. I think there may be some that are more
22 administratively acceptable.

23 Q. All right. Well, I mean, what we are
24 concerned about is the content of the information on
25 the map, and if you choose to do it -- have a better

1 suggestion as to how to do it, you won't get any
2 argument from us.

3 A. Thank you.

4 MR. MULTAMAKI: A. If I could just
5 comment on that, Mr. Campbell.

6 The bar charts that you see in the Red
7 Lake Crown Plan, to get back to the silvicultural
8 ground rules, you would still have to go through the
9 stand listing. There is no direct connection between
10 those bar charts that you see and the silvicultural
11 ground rules. The only connection is through the stand
12 number, the stand listings and back to the SGRs.

13 For example, you can't look at that bar
14 chart and suddenly say: Oh, yes, that's an Sb3. The
15 only way to get to an Sb3 is in fact through the stand
16 listing.

17 Q. Well, you have just got to exactly
18 the next point that I want to -- actually, it isn't the
19 next point.

20 MR. KENNEDY: A. The result is the same
21 though, Mr. Campbell.

22 Q. The result is the same.

23 A. The same.

24 Q. And I guess at some point in my
25 cross-examination I was going to come back, and I will

1 come back to this point, because what we do have is a
2 suggestion as to how, after we have gone through some
3 other stuff, how that bar chart could be modified
4 slightly and read whatever is administratively
5 convenient to bestow the same information every time I
6 say bar chart, all right, and we have some specific
7 suggestions as to additional information in that
8 respect.

9 But if you don't mind, we can put that
10 aside for a minute because I want to work through some
11 of the traceability concerns that we have with Table
12 4.11 before I go on to that, all right. So can we put
13 that aside for a moment knowing we are coming back to
14 it.

15 A. Certainly.

16 Q. Thank you. Now, gentlemen, I want to
17 then take you to the site description portion of Table
18 4.11 and I want to review with you in relation - I will
19 use spruce again as the example - the kinds of site
20 descriptions that you have got, Mr. Multamaki, and the
21 kinds of classifying system that you've used, the Sb1.

22 I think to do this I am best to start at
23 the silviculture guides for the spruce working group
24 which is Exhibit 382 and, in particular, page 45 of
25 that.

1 MR. CAMPBELL: And, Mr. Chairman, we have
2 for ease of reference photocopied that page and ask
3 that it be added as page 26 to Part 1 of Exhibit 911.

4 MR. FREIDIN: What page?

5 MR. CAMPBELL: Page 26.

6 MS. SEABORN: (handed)

7 THE CHAIRMAN: Thank you.

8 MR. CAMPBELL: Q. Now, gentlemen, I want
9 to draw your attention to the bulleted point on this
10 page, just above that there is a paragraph that points
11 out that:

12 "There are a wide range of silvicultural
13 options for management of the spruce
14 working group. Black spruce is
15 particularly flexible."

16 It goes on:

17 "Management prescriptions are based on
18 the five site types described in section
19 2.2.4, 'Predominant Site Types.' These
20 five sight types are..."

21 The five are listed, and then it goes on
22 and discusses prescriptions in relation to those five
23 site types.

24 So I take it you are familiar with that
25 generally, Mr. Multamaki?

1 MR. MULTAMAKI: A. Yes, I am.

2 Q. And would you agree with me that
3 those five site descriptions may by themselves not be
4 sufficient, in that within a category of shallow soils
5 there might be a variety of different sort of
6 subclassifications, each subclassification for which
7 you would want to develop a particular set of
8 prescription options.

9 Would that be fair, that it would be
10 inappropriate to try and use only these five
11 classifications when you are drawing up Table 4.11? I
12 guess that's the point I am making.

13 A. You certainly may want to look at
14 subclassifications within those five and, in fact,
15 that's what you've seen taking place on the Red Lake
16 Crown. And I think it is on page 24 of your exhibit
17 that talks about subsystems and subclassifications.

18 Q. Yes, that's quite right. And I want
19 to turn then with that to a new version of Table 4.11
20 which we have prepared and a suggestion as to how the
21 FRI working group notation could provide a better link
22 to the silviculture guide.

23 MR. CAMPBELL: So perhaps if I could get
24 the slightly amended Table 4.11 distributed, together
25 with the sheet that's headed -- that's got Silviculture

1 and Logging System Information on it and a sheet that
2 has on it the heading called Table 4.11 FRI Working
3 Group Code.

4 Now, Mr. Chairman, what is being
5 distributed now are those three sheets, one entitled
6 4.11, one which has FRI Working Group Code on it, I
7 guess it is actually -- Ms. Seaborn, are these four
8 pages going in at once?

9 MS. SEABORN: Yes.

10 MR. CAMPBELL: All right. It is four
11 pages. The next page is -- the third page is --
12 Silviculture System is the heading, and then the final
13 one under Table 4.11, the heading is Renewal, Treatment
14 Description and there are four pages which then will be
15 numbered 27 for the Table, 28 for the part that has the
16 FRI Working Group Code on it, 29 for the Silviculture
17 System and Logging System Information, and then 30 for
18 the Renewal Treatment Description.

19 Q. Now, gentlemen, I want to draw your
20 attention first to the working group code. What we
21 have put on this table in place of FRI WG is FRI WG
22 Code. The only other change is the fifth column over
23 which in the original table simply is a heading Harvest
24 Method, we have changed to Logging System to match the
25 terms and conditions, and I will come to the term and

1 condition number in a moment.

2 Mr. Kennedy, I guess, and Mr. Multamaki,
3 whoever else wants to kick in on this one, what I would
4 like to suggest here is that in order to improve
5 traceability to the black spruce guide, in this case,
6 or whatever other guide would be appropriate in other
7 cases, that there be a change to the way the FRI
8 working group codes go in whereby Part A of the working
9 group code, which would consist of Sb1 through Sb5,
10 would be the predominant site types taken from the
11 silvicultural guides. So that, for instance, very
12 shallow soils across the whole area of the undertaking
13 would be treated as Sb1 so that we could get
14 traceability and comparability across the area of the
15 undertaking, with a further notation, Part B I call
16 it - the comma - A, B, C, D, E, F, whatever number it
17 takes, and that would be the management unit site type
18 designation, so that within each predominant site type
19 that would be specific to the site description used in
20 the management unit forest. Do you understand the
21 concept?

22 MR. KENNEDY: A. I think so. You are
23 suggesting -- go back to you. You are suggesting a
24 silvicultural ground rule that will be applicable
25 across the entire area of the undertaking?

1 Q. No, no. What I am suggesting is,
2 that simply with respect to the identification of a
3 working group, that the first aspect of the
4 identification should relate to the five types that are
5 set out in page 45 of the silvicultural guide for black
6 spruce.

7 A. So there would still then be the
8 opportunity to tailor it to meet the local public
9 observations.

10 Q. Absolutely. So that, for instance,
11 if you had very shallow soils, that would be Sb1 comma,
12 and then each of Mr. Multamaki's classifications that
13 were within the very sites, shallow -- the very shallow
14 soils category would be like A, B, C, whatever he
15 wanted to use, so the particular -- taking advantage of
16 of the particular -- or, rather, reflecting the
17 particular characteristics within the management unit.

18 I'm not trying to get away from the
19 forester's ability to set out those site descriptions,
20 I'm just trying to add to it a reference which ties a
21 little more closely to the silvicultural guides which
22 set out five basic classifications. All right?

23 A. I understand your proposal.

24 Q. Okay. Now, I guess the simple
25 question is: In order to -- you will recognize that it

1 has been very difficult to compare these things across
2 the area of the undertaking. Would you agree that this
3 kind of approach would be helpful in starting to
4 provide some comparability -- ability to do analysis
5 and comparability across the area of the undertaking
6 where the black spruce guide is being applied?

7 A. It would provide assistance in that
8 regard, although I must comment I'm not sure why one
9 would do that.

10 Q. Well, haven't you made a point of
11 wanting to be able to take advantage of other peoples'
12 experience in other areas?

13 And I would have thought that
14 comparability -- for instance, if you looked at your
15 success in regeneration on very shallow soils, it might
16 be a very nice way to say: All right, what's the
17 success rate then and how has that been on shallow
18 soils or very shallow soils across the area of the
19 undertaking?

20 It is just a way of facilitating the
21 analysis of similar information and gathering it
22 together.

23 A. Okay, I see the point there. If you
24 would allow me to comment, we believe we have
25 recognized that idea in suggesting the use of the FEC,

1 forest ecosystem classification coding in the site
2 description. So, yes, there are -- there is an element
3 of that.

4 Q. Is the FEC coding being required in
5 the Timber Management Planning Manual?

6 A. In the planning manual at the moment,
7 no. In our terms and conditions we have made reference
8 to including that where it is available in the site
9 description.

10 We have offered -- if I could continue.
11 The opportunity to amend the Timber Management Planning
12 Manual is one that we have put on hold pending the
13 outcome of the hearing.

14 Q. Is there any -- now, how quickly is
15 the FEC process being extended across the area of the
16 undertaking?

17 A. Oh, very quickly. Since the evidence
18 that I gave in Panel 7 the northwest, northcentral
19 forest ecosystem classification has been completed. At
20 that time it was in draft and there have been a number
21 of training sessions I believe that have taken place
22 this past year to train staff.

23 So there is a significantly increasing
24 amount of the area of the undertaking under that
25 classification system.

1 Q. All right. But if I am trying to
2 understand some link between the application of the
3 black spruce silviculture guide and what is going on on
4 the ground, my recollection in reading the black spruce
5 silviculture guide is that it does not tie
6 prescriptions to FEC coding; is that correct?

7 A. You are correct in that my
8 recollection is the same as yours in that regard, yes.

9 Q. All right. While that may be useful
10 from an FEC point of view, it doesn't help us tie --
11 understand the application of the black spruce guide?

12 A. I would say that's a fair
13 observation, it provides a greater level of detail for
14 those individuals when they review the information
15 within the area for which the guide was originally
16 developed for.

17 Q. I'm not trying to dispute that the
18 FEC isn't good stuff. Do you anticipate that once it
19 spreads sufficiently broadly that the site
20 prescriptions recommended in the various silviculture
21 guides would be tied to the FEC information?

22 A. I would be speculating in that
23 regard, but I think it will be something that would be
24 considered at the time the guides are -- the
25 silvicultural guides are revised once again, that with

1 the additional forest ecosystem classification
2 information available, that that would be incorporated
3 into the guide, just as any other new developments or
4 new results of research would be incorporated.

5 Q. All right. So if I can just sort of
6 cut through this, is it fair for me to take from this
7 that you recognize; that is, the Ministry recognizes it
8 would be desirable to have some kind of information set
9 up as a result of the guide and in Table 4.11 that
10 allowed the two to be related to each other in a way
11 that also allowed comparison across the area of the
12 undertaking. Is that a fair summary of what you are
13 saying?

14 A. I hadn't thought of it before until
15 what you had mentioned earlier, but there may be some
16 merit in that, yes. Right at the moment we have keyed
17 in on what we think would be useful if that's the
18 forest ecosystem classification.

19 Q. Then if you wanted to use the forest
20 ecosystem classification - I am not arguing with that -
21 I am just suggesting that you do see that as being a
22 good goal to make comparability not just from the guide
23 to the silvicultural ground rules within the
24 management unit, but also across the area of the
25 undertaking. That's a good objective?

1 A. I have some hesitation in thinking
2 that across the total area of the undertaking it may
3 not -- or, sorry, it is not appropriate to make direct
4 comparisons I think of all site types; whereas the
5 ecosystem classification is enabling us to do that on
6 portions of the undertaking where there are similar
7 conditions that have been observed through the survey
8 that developed the guide. I believe we are talking a
9 similar concept.

10 Q. I think we are talking exactly the
11 same concept, in that if the area of the undertaking is
12 too big and you have to do it in northwest versus the
13 rest of the area of the undertaking, that's fine.

14 What I take you to be saying is you
15 would -- rather than make up this way of doing it, you
16 think the right move is to key towards FEC and then
17 bring the information into conformance across the
18 area --

19 A. Very much so.

20 Q. All right. Okay.

21 THE CHAIRMAN: Will you find a place, Mr.
22 Campbell, to break for lunch.

23 MR. CAMPBELL: I think this is a good
24 place, Mr. Chairman.

25 THE CHAIRMAN: Very well. We will

1 adjourn until 1:30.

2 ---Luncheon recess taken at 12:10 p.m.

3 ---On resuming at 1:30 p.m.

4 THE CHAIRMAN: Thank you. Be seated,
5 please.

6 Mr. Campbell?

7 MR. CAMPBELL: Thank you, Mr. Chairman.

8 Mr. Chairman, just before beginning I
9 thought I just might sort of say something that might
10 kind of try to put this in just a little bit of
11 context.

12 The areas of normal operation in this
13 undertaking will be - my own numbers - 85 to 95 per
14 cent of the land mass. The Ministry of Environment is
15 obviously concerned about ensuring that environmental
16 protection objectives are achieved on 85 per cent to 95
17 per cent of the land mass.

18 We are very encouraged by Mr. Freidin's
19 remarks yesterday about the area of concern planning
20 process and the need to standardize that, meet the
21 various objectives he outlined and we believe that
22 there is likely to be good resolution to differences
23 between the ministries on that matter given those
24 remarks.

25 On the 85 per cent to 95 per cent of the

1 land mass of the area of the undertaking, which is the
2 area of normal operations, the Ministry of Natural
3 Resources has taken the position that environmental
4 protection is inherent in the silvicultural ground
5 rules; it is clear in Ms. Seaborn's cross-examination
6 of Panel 10, it is clearly stated at page 146 of the
7 Environmental Assessment Document.

8 We do not take you through the various
9 aspects of this documentation because we think it is
10 fun, or because we think it is easy, or because we
11 think it is dull; we take you through it because for 85
12 per cent to 95 per cent of the area of this undertaking
13 it is precisely the silvicultural ground rules that are
14 being relied upon by this proponent in achieving
15 environmental protection.

16 Those environmental protection objectives
17 are set out in the guides that feed into 4.11 and they
18 result in individual prescriptions that determine
19 directly what happens on the ground. The people I am
20 representing in this hearing care in the end very
21 deeply about what is happening on the ground.

22 THE CHAIRMAN: Are you suggesting the
23 Board doesn't?

24 MR. CAMPBELL: I am not suggesting that
25 at all, Mr. Chairman. I am suggesting that this is

1 critical to assessing the Ministry of Natural
2 Resources' position that environmental protection is
3 inherent in the silvicultural ground rules to
4 understand in a very specific, detailed way - tiresome
5 though it may be - exactly how these things tie
6 together, and the problem that is facing the ministry
7 that I represent when it is getting plans that have the
8 amount of variability, which I will be demonstrating,
9 exists with respect to these matters both as to
10 traceability, content of these various tables, and
11 related topics.

12 In order to demonstrate this, I believe -
13 and the Board may find it tiresome - but it is our
14 position that there are some very good things that have
15 been done in the Red Lake Plan and in the other plans.
16 There are some things that are not present in other
17 plans that we will be getting to that make it very
18 difficult to assess whether the overall objective is
19 being met.

20 I know no other way of demonstrating this
21 to the Board than taking you through what is intended
22 by the tables, how they are done, making suggestions
23 for improvement, getting some reaction for those.

24 I think the most valuable evidence that
25 this Board can get on all of these matters is from the

1 people that are doing the job. It's their experience
2 and judgment that in the end is going to have to be
3 used in applying this Board's decision.

4 And I'm sorry if it's taking a lot of
5 time, I wish it could be done faster; but, in my
6 submission, it is absolutely critical to understand in
7 a very detailed way how this all works.

8 In the end, I think having done that, you
9 will find that it isn't that complicated, but each of
10 those links has to be understood in order to assess
11 whether it is fair to say environmental protection is
12 inherent in the silviculture ground rules.

13 And I would ask the Board to have just a
14 little patience. I know it takes a little while, some
15 of that is my fault - maybe a lot of it is my fault -
16 some of it is the panel's, some of it is everybody
17 else's.

18 I will take on the burden of that, but I
19 do ask you to be patient, because for 85 per cent to 95
20 per cent of the area of the undertaking I don't know
21 how else it is possible to assess whether this planning
22 process is achieving environmental protection.

23 And I think with that, I will just
24 continue.

25 THE CHAIRMAN: Why don't we go on.

1 MR. CAMPBELL: Q. Now, Mr. Kennedy, when
2 we left off you were suggesting that the FECs survey
3 classifications provided a good basis for comparison
4 across broader areas than the individual units. Do you
5 recall that?

6 MR. KENNEDY: A. Yes, I recall saying
7 that.

8 Q. And I won't worry about whether the
9 broad unit extends to the full area of the undertaking,
10 but I would like to come back for a moment to the
11 importance of, at the same time, the particular soil
12 characteristics in the site descriptions and site
13 classifications on 4.11.

14 For instance, do you have your
15 silviculture guides for spruce with you, 382?

16 A. Yes, I do.

17 Q. Could you go to page 41, please. I
18 would just like to move through a couple of pages
19 fairly quickly just indicating areas in which these
20 guides are specifically tied to soils kind of
21 information. For instance, in the second last
22 paragraph on page 41 starting at the end of the second
23 line, it says:

24 "On peat lands, winter harvesting on
25 frozen ground minimizes rutting and

1 compaction of the organic soils."

2 If we go over to page 42, bottom

3 paragraph:

4 "Full-tree harvesting on very shallow
5 soils of marginal fertility may affect
6 regeneration since slash removal exposes
7 the ground surface to excessive heating
8 and drying and should, therefore, be
9 discouraged."

10 Page 43:

11 "On fine textured soils, mechanical site
12 preparation for spruce regeneration
13 should preserve the organic layer. The
14 preferred method for mechanical site
15 preparation of peat land areas for black
16 spruce is winter shear blading."

17 Page 43, the next paragraph:

18 "On shallow soils of marginal fertility
19 post-harvesting site preparation should
20 ensure that organic layer is
21 maintained..."

22 And I could go on, but I would just ask
23 you to agree that certainly the soil characteristics
24 are clearly in the application -- are clearly important
25 in the application of the silvicultural guide. You

1 would agree with that?

2 A. Yes, I would.

3 Q. And, therefore, that information
4 should be reflected -- retained in Table 4.11 even
5 though the Ministry may wish some other mechanism for
6 success comparisons across broader areas than the
7 management unit. Would you agree with that?

8 A. I would agree that soil
9 characteristics are an element to site description and
10 should be retained in silvicultural ground rules.

11 Q. All right. And I take it that
12 understanding the soil characteristics; you would
13 agree, are important as set out in the silviculture
14 guides both with respect to understanding environmental
15 effects and understanding regeneration success
16 possibilities?

17 A. Sorry, I don't believe I heard the
18 first part of your question.

19 Q. I am just asking you to confirm that
20 retaining soils information in 4.11, based on the
21 silviculture guide for spruce as an example, retaining
22 that soils information is important both in terms of
23 being able to understand environmental effects and
24 being able to understand measures that encourage good
25 regeneration success?

1 A. Yes.

2 Q. All right. Now, I don't think we
3 need to spend much time on the next page which deals
4 with silviculture systems and logging systems.

5 I would just draw to your attention that
6 on page 27 of our material, with our slight revisions
7 to Table 4.11, that we have added the word logging
8 system or changed the entry over the fifth table to
9 logging system. And I would ask you to confirm that
10 that is what is contemplated by your term and condition
11 No. 11(a)?

12 A. I believe we used the term logging
13 method, but I imagine we are talking of similar
14 information to appear there.

15 Q. Then in fact what we are talking
16 about would be shown on my page 29 under the heading
17 Logging System: Full Tree, Tree Length, Shortwood and
18 Whole Tree?

19 A. Yes.

20 Q. Thank you. Can you confirm, without
21 my going through it, that there is wide variation in
22 the current practice now as to what entries are under
23 that table in various timber management plans?

24 A. Yes, I can confirm that and advise
25 that's why the term and condition was prepared.

1 Q. All right. And --

2 MR. FREIDIN: The heading under the
3 present plans is not logging system.

4 MR. CAMPBELL: No, it is harvest method I
5 believe, it's silvicultural system and harvest method
6 and we thought --

7 Q. You would agree that having put in
8 that term and condition that that is an appropriate
9 amendment to Table 4.11, to put in logging? I've tried
10 to use the word from your Panel 10 evidence, logging
11 system.

12 MR. KENNEDY: A. Yes.

13 Q. Do you prefer logging method; do you
14 see it being different?

15 A. I don't believe there was a
16 difference contemplated when it was put in, no.

17 Q. All right. So that we are agreed
18 that what goes in there is what is on page 29.

19 MR. CAMPBELL: And, Mr. Chairman, rather
20 than ask you to turn through all the examples, if the
21 Board wants to satisfy itself on these variations, you
22 can look at pages -- let me give you some page numbers
23 here.

24 Pages 4 - in Part 2 I am talking of
25 Exhibit 911 - pages 4, 10 and 11, 32 and 33, 42, 51 and

1 62, and you will see that in some cases logging systems
2 are put forward and in many cases they are not included
3 on those tables.

4 Q. Now, Mr. Kennedy, I would ask you
5 also to confirm what I believe your Panel 10 was, was
6 that selection of a logging system can have important
7 consequences in terms of regeneration success?

8 MR. KENNEDY: A. I believe that was part
9 of the evidence in that panel, yes.

10 Q. Do you agree with that statement?

11 A. Yes.

12 Q. Is there anybody on the panel who
13 disagrees with that statement?

14 (no response)

15 I take silence as meaning no.

16 I want then to turn to what I have
17 included as page 30 in Part 1 of Exhibit 911 which has
18 to do with that portion of the table relating to
19 renewal treatment description.

20 Mr. Kennedy, can you confirm that
21 although the instructions to Table 4.11 require that
22 options for renewal treatment descriptions be listed in
23 order of preference, that that is not always followed
24 in preparing plans?

25 A. Yes, I can confirm that.

1 Q. And with respect to conditions used
2 to guide the choice in options for renewal treatment
3 descriptions, could you explain to me, please, what is
4 intended by those words?

5 And, Mr. Multamaki, unless I am mistaken,
6 I don't see anything in Table 4.11 that constitutes a
7 response to the instructions to the table which are
8 that:

9 "The conditions used to guide the choice
10 for renewal treatment descriptions are to
11 be set out in the table."

12 And I guess my question to both of you,
13 is this because I don't understand what is contemplated
14 by those instructions, or is there in fact something
15 missing?

16 I know that when you did the tables, Mr.
17 Multamaki, it was one of the very early applications of
18 the Timber Management Planning Manual. In fact, if my
19 recollection is correct, the plan was largely prepared
20 and then you had to redo the tables in order to bring
21 them into conformity with the new manuals; is that
22 correct? That was my recollection from one of the
23 minutes of the planning team meetings.

24 MR. MULTAMAKI: A. As I remember, the
25 SGRs were in fact prepared during the course of the

1 first plan preparation prior to Fire No. 7 and then
2 they were updated during the plan rewrite after Fire 7
3 and brought into conformity.

4 Q. And I think the minutes showed that
5 after that they were brought into the format for the
6 Timber Management Planning Manual which had just come
7 out at that time?

8 A. I think there was an update at that
9 point, and we brought it out.

10 Q. In any event, gentlemen, I think it
11 is important in looking at the Red Lake Plan to have an
12 understanding of what the timing was.

13 Now, Mr. Kennedy, if we could go back
14 please. What is meant by these instructions that Table
15 4.11 should set out the conditions used to guide the
16 choice of options?

17 MR. KENNEDY: A. It is my understanding
18 that this was intended to deal with what I'd consider
19 unusual or infrequent prescriptions, infrequently used
20 prescriptions, and wasn't intended to deal with the
21 everyday choice, if I could characterize it that way,
22 what I would call the normal prescriptions.

23 I think you are right in that there are a
24 variety of factors that go into that final choice
25 and...

1 Q. Well, if we can go back, it says:

2 "Renewal treatment description..."

3 On page 24 of the material I've handed
4 out, it says:

5 "Enter the renewal options in order of
6 preference and with the conditions that
7 will be used to guide the choice. The
8 need for site preparation is included
9 here."

10 Is there something that I am missing in
11 those words?

12 A. No, I'm providing you my
13 interpretation of those words. With the comments that
14 I made, to the best of my knowledge, that was what was
15 intended.

16 Q. Unless I am mistaken then, what is
17 written here is inaccurate?

18 A. It may be that I am inaccurate. I
19 have given you my understanding and I would be unable
20 to comment beyond that.

21 Q. Could we then try some of the other
22 foresters on the panel. Mr. Groves, what's your
23 understanding of these instructions?

24 I mean, I take them at face value. They
25 say enter them in order of preference (1, 2, 3) and

1 tell us what conditions will be used to guide the
2 choice. So that if you find this circumstance, you'd
3 boot to choice 2, if you find this circumstance you
4 boot to choice 3.

5 A. If I might, if you would permit me, I
6 would like to take you back to point No. 6 on that page
7 23 where an example is given for harvest that deals
8 with the same condition. In point No. 6, the latter
9 part of the first sentence indicates:

10 "With the conditions that will be used to
11 guide the choice..."

12 And then goes on to provide an example
13 where the choice of natural regeneration might be the
14 choice with areas more than one and a half kilometres
15 from an all-weather road.

16 Q. Mr. Kennedy, I lost that wording last
17 night, I must have spent 20 minutes looking for it and
18 there it was right in the instructions. So I am
19 delighted to have you -- I will come back to that.

20 But that's a perfect example; isn't it?
21 You have got a number of options, where the situation
22 is such that this circumstance exists, where the areas
23 more than 1.5 kilometres from an all-weather road, you
24 might have -- that would be a condition that would
25 guide you to use another option; correct?

1 A. Correct.

2 Q. All right. So going to the renewal
3 treatment descriptions, for instance, is it your
4 understanding, Mr. Groves, that the instructions are
5 intended simply as written, that they are listed in
6 order of preference and then there should be an entry
7 there that says: We will move from 1 to 2 under these
8 circumstances and we will move from 2 to 3 under these
9 circumstances?

10 This is the way I read these words and I
11 wondered if that was what it intended.

12 MR. GROVES: A. Okay. The
13 interpretation that I received when I was an author of
14 the plan was similar to what Mr. Kennedy has talked
15 about. If there were conditions, with the exception of
16 say; i.e., availability of equipment and all those
17 other operational kind of concerns, you identify what
18 options would come up if you are going from option 1 to
19 2 or 2 to 3.

20 But, generally speaking, if there was no
21 conditions attached and no other outside
22 considerations, your No. 1 option was the one option
23 you were going to apply to that site.

24 Q. Mm-hmm.

25 MRS. KOVEN: Excuse me, Mr. Campbell. At

1 this risk of igniting another lecture, could I ask a
2 question to the panel.

3 And that question is: Haven't we heard
4 many times in the evidence that, however many options
5 there are, one, two or three, they are equal and it is
6 up to the forester when the time comes to do the
7 renewal as to which one to select?

8 MR. GROVES: They are equal, but they are
9 all listed in order of preference by the forester
10 involved.

11 MRS. KOVEN: But those conditions may
12 change and so you would be obliged to pick one or the
13 other?

14 MR. KENNEDY: As well, I believe we have
15 led evidence that they are not equal on a specific
16 site, that there may be site conditions present that
17 would cause one treatment to be excluded, if I could
18 use that phrase.

19 It is clear that a number of factors that
20 need to be considered when you are making the choice,
21 just as a reminder, can be found in an example in the
22 spruce guide, Exhibit 382 on page 44.

23 He is outlining the multitude of factors
24 that must be considered, and it is for this reason that
25 I believe the intent of the table is not asking for a

1 listing of all the conditions that would be found to
2 jump from one option to another.

3 And that is why I made my statement that
4 I believe it is by exception that he would list a
5 particular condition that would be a -- a specific
6 condition would be a turning point in taking that
7 option, such as the example given under 6.

8 MR. CAMPBELL: Q. All right. If we
9 could just turn back for a moment to -- I better use my
10 regular pages.

11 Mr. Multamaki, let's just pick one where
12 there are some options. Let's go to page 10 of Part 1.
13 Now, under Sb1 you have got site preparation -- under
14 the renewal treatment description portion you have got
15 three options; correct?

16 MR. MULTAMAKI: A. Yes, that's correct.

17 Q. And are they listed in order of
18 preference?

19 A. Yes, they are.

20 Q. Now, is not the table instruction
21 intended to indicate -- if 1 is your first preference,
22 is not the table instruction intended to indicate that
23 I would go to No. 2 under these conditions. Is that
24 not fair?

25 MR. FREIDIN: Didn't he just answer that

1 question?

2 MR. CAMPBELL: I am not sure.

3 MR. FREIDIN: Didn't Mr. Groves and Mr.
4 Kennedy just answer the question?

5 MR. CAMPBELL: I want to know what Mr.
6 Multamaki believed when he filled this out. I mean, he
7 has got it in order of preference.

8 If it doesn't mean that, I guess I am
9 going to have to ask for it to be added back in,
10 because I think it is really important for the reasons
11 we've discussed.

12 So with respect, Mr. Freidin, I think it
13 is kind of important to clarify this.

14 MR. FREIDIN: I have no problem with the
15 question as long as it is understood you have the views
16 of Mr. Groves and Mr. Kennedy as to what the intent
17 was.

18 I have no objection to asking Mr.
19 Multamaki what he understood it meant at the time he
20 did it.

21 MR. CAMPBELL: Q. Mr. Multamaki?

22 MR. MULTAMAKI: A. Could you repeat the
23 question, I've...

24 Q. Wouldn't the instructions -- given
25 that you have listed them in order of preference,

1 wouldn't the instructions to the table indicate that
2 there should be something on the table here that says
3 the conditions under which you would move to your less
4 preferred option 2 or your less preferred option 3?

5 A. I think the interpretation that I
6 used at the time that this plan was written was that
7 the -- I guess the instructions as to when you move
8 from choice 1 to 2 to 3 wasn't required on the table
9 itself.

10 Certainly there were discussions within
11 the text in the silvicultural section and there was a
12 certain amount of discussion in the strategy section
13 under I think the sustained yield strategy with respect
14 to directing planting stock and so on, and perhaps at
15 the time my interpretation was considerably looser than
16 yours would be.

17 Q. Well, Mr. Multamaki, all I have to go
18 on is the words that are written. And at least would
19 you give me this: That it is a fair interpretation of
20 the words that are written:

21 "Enter the renewal options in order of
22 preference and with the conditions that
23 will be used to guide the choice..."

24 To assume that something should be in
25 there demonstrating just what is contemplated. Isn't

1 that a fair reading of the instruction?

2 A. That's fair.

3 MR. FREIDIN: Where does the fact that it
4 may be a fair reading get us, if in fact the
5 interpretation is not that what the Ministry puts on
6 it?

7 MR. CAMPBELL: Because I would then like
8 to go on and say: Given that that's a fair
9 interpretation --

10 THE CHAIRMAN: Maybe there should be a
11 condition imposed that the Ministry interprets it in
12 accordance with what the words might ordinarily mean
13 and what Mr. Multamaki has just agreed might be a fair
14 interpretation.

15 MR. FREIDIN: The question really that he
16 should be asking is whether in fact it is a reasonable
17 thing to do, not whether it is a fair interpretation of
18 some words that somebody wrote not in --

19 MR. CAMPBELL: Mr. Chairman, with the
20 greatest of respect, the Ministry is relying on a wide
21 range of documents, one of those documents is the --
22 one of the principal documents is the Timber Management
23 Planning Manual.

24 If the people who are participating in
25 this hearing cannot rely on words and phrases having

1 what appear to me on the surface to be their perfectly
2 meaning, then we are all in great danger here, and I
3 think that spending a little time to understand it, if
4 they don't mean what they appear to mean, is probably
5 not such a bad thing.

6 Q. Is there anyone -- any of the other
7 foresters on the panel who, when they read these words,
8 assumed that something should be in there indicating
9 the conditions used to guide the choice?

10 (no response)

11 Again, I will take silence as being the
12 opposite of consent.

13 Mr. Groves -- or, Mr. Fleet, you wanted
14 to add something?

15 MR. FLEET: A. The type of conditions
16 that one might encounter that would cause you to move
17 from option A to option B to option C are not
18 necessarily conditions that you would encounter on the
19 ground.

20 They might be budgetary, they might be
21 stock availability and, in that sense, it is very
22 difficult to complete that -- to me it would seem very
23 difficult with your interpretation to complete that
24 table and put in all of the 'what ifs' and 'for
25 instances' you might have stock, you might have money

1 and everything else.

2 It is implicit in the design of the table
3 that's the preferred choice. It does not make any
4 sense to myself to have to list the 'for instances'
5 when you might move from A to B if they are not -- if
6 they are simply what I would describe as more
7 administrative in nature. My interpretation is the
8 same as Mr. Kennedy's and Mr. Groves'.

9 Q. All right. So that, in effect, then
10 if a reviewer or a member of the public who actually
11 takes some time to get into this material gets as far
12 as Table 4.11, all he should assume is that there is
13 the order of preference -- he should ignore this part
14 of the instruction and he should simply say: There is
15 the order of preference and there may be a whole range
16 of conditions that would influence which of those are
17 picked, but I don't know what they are. Is that fair?

18 A. I think that the position -- I think
19 I am corroborating with respect to Mr. Kennedy's
20 position, is we would under the exception; for
21 example - and the example was the 1.5 kilometre
22 distance from a road, from an all-weather road - we
23 would put that type of condition in.

24 But by and large my interpretation and
25 any reviewer's interpretation, I suggest, would be that

1 those are the exceptional circumstances and not
2 commonly found in the timber management plan in terms
3 of the movement from option A to option B to option C.

4 Q. All right. And all I am suggesting
5 to you is that there is nothing in the plan that gives
6 any guidance to the reader as to which preference would
7 be followed. That's the sum of your -- that's the
8 implication of your evidence; is it not?

9 MR. KENNEDY: A. You are assuming that
10 there was not a listing of those conditions, so in that
11 case, yes.

12 Q. All right. Thank you. I want to
13 just run through some of the other aspects of renewal
14 treatment descriptions. And, again, in the interest of
15 saving time, I can take you to particular examples
16 within the excerpts of Table 4.11 that are included in
17 911 and ask you just to agree with the general
18 propositions that I put to you.

19 And then I can refer to specific page
20 numbers so the Board can satisfy itself, if it wishes,
21 as to how this matter is dealt with in various ways in
22 the different plans.

23 I think I would first mention the need
24 for site preparation, for example, specifying heavy
25 mechanical, light mechanical and so on. Would you

1 agree that that's a matter that is dealt with in
2 various of the plans which are currently being prepared
3 in Table 4.11?

4 A. Sorry, I believe I missed the middle
5 part of your question. You asking me in a similar
6 fashion to your question earlier that the site
7 preparation component is dealt with in a variety of
8 levels of detail?

9 Q. Yes, and that in fact some plans do
10 include site preparation, for example, by stating that
11 there will be heavy mechanical site prep, light
12 mechanical site prep. Those matters are all matters
13 which I can point -- which in your experience do exist
14 in plans that are currently being prepared?

15 A. Yes.

16 Q. And similarly with timing
17 limitations -- well, just a minute, I said I would give
18 the Board some particular references to that.

19 I believe, Mr. Multamaki, your plan; does
20 it not, deal with site preparation? For instance, if
21 we go back to plan 10, you talk about shear blading, in
22 some of them you talk about no site preparation, in
23 some of them you talk about prescribed burn.

24 Those kinds of details are contained in
25 your plan; are they not?

1 MR. MULTAMAKI: A. Yes, they are.

2 MR. CAMPBELL: And that's demonstrated,
3 Mr. Chairman, on page 10 in the material that is Part 1
4 of Exhibit 911.

5 Q. With respect to timing, would you
6 confirm, Mr. Kennedy, that plans often deal with, in
7 this table, timing limitations, season of harvest,
8 hours of operation and so on?

9 MR. KENNEDY: A. Yes. It's quite common
10 to deal with season of harvest, yes.

11 Q. And less common but still sometimes
12 hours of operation, other timing limitations on
13 harvest?

14 A. Yes, I have observed those in
15 silvicultural ground rules.

16 Q. All right.

17 MR. CAMPBELL: And, Mr. Chairman, some of
18 those things can be seen in page 13 which is -- of Part
19 2 of Exhibit 911 which is Elk Lake Plan, page 19.

20 I could give you another reference that
21 season -- or timing considerations are important,
22 mentioned in the black spruce silvicultural guides,
23 page 86, and in the prescriptions -- in fact, in the
24 sample prescriptions they are included at the back of
25 the spruce guides, although they are a somewhat

1 different format, season of operation is in fact a
2 column heading.

3 Q. Now, turning then to the next item on
4 the list, special equipment, low ground pressure
5 equipment, by way of example. Can you agree that
6 that's a matter that can bear directly on both
7 environmental impacts and regeneration success?

8 MR. KENNEDY: A. Yes, on the
9 regeneration success.

10 Q. And do you not believe it relates as
11 well to environmental impact?

12 A. In the broadest sense of the word,
13 yes.

14 Q. What do you mean 'in the broadest
15 sense of the word'? Rutting, compaction, we talked
16 about things like that previously; did we not, of
17 having environmental impacts?

18 A. Yes, and items of that nature, yes.

19 Q. All right. And you would agree that
20 special equipment requirements are seen in current
21 versions of Table 4.11 that are being prepared?

22 A. Yes, I have observed them in some
23 Table 4.11s.

24 MR. CAMPBELL: And, Mr. Chairman, again
25 using the spruce guides as an example, information of

1 that type can be found in the sample prescriptions
2 shown at the back of the spruce guides. I think I will
3 move just quickly to the size of the clearcut.

4 Q. Would you agree with me that various
5 plans currently under preparation or prepared in the
6 last year do in fact indicate size of clearcut in Table
7 4.11?

8 MR. KENNEDY: A. Some plans are dealing
9 with the subject of clearcut configuration and size,
10 yes.

11 MR. CAMPBELL: And, Mr. Chairman,
12 examples of that can be found in the Armstrong example,
13 Part 2 of Exhibit 911 at page 3.

14 In the silviculture guides, that matter
15 is dealt with -- size of clearcut considerations are
16 dealt with in the black spruce silviculture guides at
17 pages 47 and 49; and in the Trout Lake Plan, for
18 instance, just to give you another example, in the
19 material filed it can be demonstrated that Table 4.11
20 includes that information by reference to pages 52 and
21 55 of Part 2.

22 MR. FREIDIN: Sorry, Mr. Campbell, you
23 mentioned pages 47 and 49 of the silvicultural guide.
24 What was the reference before that?

25 MR. CAMPBELL: Armstrong Plan, I picked

1 one page from that, page 3 -- it is page 3 of Part 2 of
2 Exhibit 911.

3 MR. FREIDIN: Thank you.

4 MR. CAMPBELL: Q. In terms of dimension
5 and separation of strips, groups, seed trees, blocks,
6 et cetera, Mr. Kennedy, can you confirm that current
7 plans in the preparation of Table 4.11 include that
8 sort of information as well?

9 MR. KENNEDY: A. Yes, some plans do
10 include that sort of information.

11 MR. CAMPBELL: And, Mr. Chairman,
12 examples of that can be found in Part 2 of Exhibit 911
13 at page 32 for the Magpie unit, page 55 for the Trout
14 Lake unit, page 59 for the Whitney unit.

15 And in the silvicultural guides, again,
16 it is discussed at pages 47 and 49 and demonstrated in
17 the prescriptions that are included in the guides in
18 table -- at page 88.

19 You have got to count through some of
20 those pages to find 88 and write in your numbers, but
21 if you go back to the number and keep going you can
22 find which page is page 88.

23 Q. Mr. Kennedy, turning to planting
24 parameters, the next item on the list, can we agree
25 that plans currently being prepared often contain

1 planting parameters with respect to planting stock?

2 MR. KENNEDY: A. It is common practice
3 to include planting densities. And if that's what you
4 are referring to by planting parameters, yes.

5 Q. All right.

6 MR. CAMPBELL: And, Mr. Chairman, again
7 those can be found in the material in Part 2 of Exhibit
8 911 at pages 10, 18, 39 and 50 and can be found in the
9 spruce guides, the prescription at the back of the
10 spruce guides, the sample prescription at page 86 of
11 the spruce guides.

12 Q. Then, Mr. Kennedy, with respect to
13 special considerations; e.g., winter cut with no
14 all-weather road. Again, can you agree that that sort
15 of thing is found in prescriptions currently being
16 prepared in timber management plans?

17 There are a variety of special
18 considerations that come into play that haven't fit
19 into our other categories so far?

20 MR. KENNEDY: A. For the last two items
21 on your list, I can't say that I recall from the
22 limited amount of time I have spent with the examples
23 you have provided, those two items, so perhaps you
24 would like to reverse it and if you would allow me the
25 page numbers to confirm for you.

1 Q. Which ones are you referring to?

2 A. Special considerations and site not
3 expected to regenerate naturally at the commercial case
4 basis.

5 Q. Well, I haven't got to that one yet.
6 Let's deal with special considerations. Could we turn
7 maybe then to an indication of the kind of thing that
8 bears upon impacts and regeneration success by going to
9 page 41 of the spruce guides.

10 And for instance there it talks about:

11 "On peat lands..."

12 In the second last paragraph, really the
13 same reference:

14 "On peat lands, winter harvesting on
15 frozen ground minimizes rutting
16 and compaction of organic soils."

17 That would be an example; would it not,
18 of some -- of a kind of special consideration that
19 needs to be incorporated into 4.11?

20 A. I would have incorporated that under
21 season of operation, but I can -- I'm curious as to
22 winter cut with no all-weather road. I can see that as
23 a possible prescription. I can't say that I observed
24 it in a silvicultural ground rule.

25 Q. I think the reference for that can be

1 found at Volume 142 of the transcript, page 24156 on
2 October 3rd where I believe it was explained that
3 occasionally that was an important consideration where
4 one was using a winter road because no mechanical site
5 preparation equipment can get in in the summer.

6 A. And you were asking me if I have
7 observed that in plans that are being prepared--

8 Q. Mm-hmm.

9 A. --and I can't say that I have, but I
10 do agree that could be a consideration.

11 Q. And it could be a consideration that
12 affected both environmental effects and regeneration
13 success?

14 A. Certainly affect for environmental
15 considerations and would have the potential to affect
16 the type of regeneration.

17 Q. Yes. So that it is an important
18 consideration when considering the regeneration option,
19 let's put it that way?

20 A. Are you asking me if the season of
21 harvest is an important consideration?

22 Q. No, I am trying to just get an
23 illustration of the other kinds of special
24 considerations that come into play, and I am wondering
25 whether that one which was spoken of in Volume 142 of

1 the transcript is such a kind of special consideration?

2 A. The page number, please?

3 Q. 24156.

4 A. And could I ask for clarification.

5 Were you not asking me if I observed those types of
6 situations in plans being produced?

7 Q. Yes, that was my first question.

8 A. And I have indicated that I have not.

9 Q. All right. Is that kind of
10 consideration -- is that kind of consideration one that
11 is important to understanding the regeneration approach
12 being taken? I may be in trouble on this with my
13 transcript reference. Just a minute, I want to be sure
14 whether...

15 A. Perhaps lines 8 to 16.

16 Q. Exactly. Now, that kind of
17 consideration, lines 8 to 16 on page 24156, that kind
18 of consideration I would take it is directly related to
19 harvest method, regeneration success; in other words,
20 to the silvicultural package that you are putting
21 together?

22 A. Yes, the type of access and the
23 season of operation would be items that would be
24 considered in developing silvicultural ground rules.

25 Q. All right. Perhaps I could short

1 circuit this. Are there not -- or, we have gone
2 through a variety of things before we hit special
3 considerations.

4 Are you suggesting that there are no
5 other items beyond the six that we have gone through
6 that need to be reflected in 4.11 in order to
7 appropriately assess potential for environmental impact
8 and regeneration success, or do those six kind of
9 catch...

10 A. I would not make that statement, no.
11 First of all, you are asking me originally the ones
12 that I have observed, and I believe I have answered
13 truthfully in that regard, and they are all under the
14 single heading of Renewal Treatment Descriptions. So
15 certainly there are other factors that need to be
16 considered in preparing silvicultural ground rules that
17 could have -- or that had the potential for
18 environmental effects.

19 Q. All right. You would agree that
20 those six that we have listed do need to be considered?
21 We are at least that far; are we not?

22 A. Yes.

23 Q. And, in fact, they are being
24 considered and included in Tables 4.11 that are
25 currently being prepared?

1 A. Yes, they are; not in every case but,
2 yes, we have seen examples where the planning team has
3 determined that it is appropriate to deal with those
4 items.

5 Q. All right. So it is quite feasible
6 to include those items; there is nothing impractical
7 about it, it is in fact being done?

8 A. Yes.

9 Q. And are there any other major
10 considerations that you feel should go into 4.11 or
11 that you have seen in 4.11 that I would put in this
12 other factor of special considerations?

13 A. There may well be, and none that come
14 to mind that I would say would be something that would
15 be universal. I wouldn't suggest that that's an
16 exhaustive list, it is certainly the more common items
17 that I would want to consider.

18 Q. So the six are the more common items
19 and then, rather than saying special considerations, we
20 should perhaps say additional considerations depending
21 on local circumstances; is that the right thought?

22 A. Certainly. It would also allow for
23 the consideration of all the other multitude of factors
24 that would have to be -- you would have to be aware of
25 in making --

1 Q. All right. Could we at least agree
2 on this, that any other factor the forester thought was
3 particularly important in his area or with respect to a
4 particular prescription should be reflected in Table
5 4.11 even if it didn't fall within the first six?

6 A. Yes.

7 Q. Thank you. Now, the last matter is
8 one that I think it is fair to say we haven't seen a
9 lot of examples of in Table 4.11, and I would ask you
10 if it wouldn't be useful to add to Table 4.11 a
11 notation, if in fact the forester expected that an area
12 would not regenerate, if it was being left for natural,
13 there was no -- let me back up.

14 If in an area cut there was not going to
15 be artificial regeneration in the sense of planting,
16 would it not be useful to add the notation if in fact,
17 as a result of that, the forester's judgment was that
18 it would not regenerate naturally to commercial tree
19 species?

20 A. First of all, the Table 4.11 is
21 intended to cover both artificial and natural
22 regeneration methods.

23 Q. Yes, and my question is focusing on
24 the natural side of it. If it is being left to natural
25 but it is not expected to regenerate naturally to

1 commercial tree species, is that a notation that in
2 your judgment it would be worth adding to Table 4.11 so
3 as to give a picture of what is going to happen on the
4 site?

5 A. It would be something worth giving
6 some thought to, yes.

7 Q. Can we assume that if it's not
8 going -- if it's an area that the forester expects is
9 going to be left to natural regeneration and it's not
10 going to come back to a commercial tree species, can we
11 assume that is covered somewhere else in the tables,
12 Table 4.12 or somewhere else?

13 Let me be fair about this, I have not
14 seen anywhere else where it is likely to be caught.

15 A. I'm contemplating the relationship
16 between this and the forecast of free to grow tables,
17 and I would suggest that there would need to be some
18 very careful interpretation, but it is not clear --
19 there is not a clear statement of the sort that you are
20 looking for.

21 There are a number of questions that come
22 to mind that I would want to pursue with you as to the
23 time over which one would want to look as compared to
24 the normal free to grow period for an area, and I would
25 also be interested in exploring the scale of areas that

1 we are talking of, because I believe you have heard
2 considerable evidence that there are areas that are not
3 treatable, that are relatively small in size, and that
4 do regenerate.

5 Q. We would be delighted to speak with
6 you about those matters. I would ask you to -- and if
7 we've got to approach this setup, perhaps it is better
8 suited to deal with the details.

9 I would just ask you to confirm,
10 certainly my general impression, which is that it is a
11 matter of considerable interest as to whether an area
12 once harvested is going to return to a commercial tree
13 species on a predictable -- within a predictable time
14 frame?

15 A. It is of considerable interest to
16 foresters, yes, in the very purpose of the undertaking.

17 Q. Well, that was going to be my second
18 question. But wouldn't you agree with me that -- well,
19 let me ask you: Is it your judgment, as a man who is
20 interested in forestry issues, that there is a general
21 public concern that areas harvested -- there is a
22 general public concern in understanding whether areas
23 harvested are going to return to commercial tree
24 species within a predictable time frame?

25 You might not put it in those words, but

1 is not this whole matter being the very purpose of the
2 undertaking sustained yield? Isn't that a matter in
3 which, in your experience, there is a general public
4 interest?

5 A. Yes, I would agree that there is a
6 public interest in that regard and I can advise that I
7 believe that in part has given rise to our terms and
8 conditions 53, 54, and 55 which makes available some of
9 the information on success rates, et cetera.

10 Q. And is it your evidence that that
11 information should make it clear across the area of the
12 undertaking as to how much area has been harvested but
13 is not expected to regenerate to commercial tree
14 species on a predictable time frame? Will that
15 information be explicitly set out in those reports that
16 are contemplated?

17 A. I'm not able to answer that question
18 as some of the details of those reports are still being
19 prepared. I believe if so that information will be
20 discussed with Panel 16.

21 Q. All right. So if I have -- I mean, I
22 have assumed that the purpose of those reports is in
23 part to address the general public interest in this
24 matter with summaries of the state of affairs.

25 And that's certainly, I think we have

1 agreed, is a matter that is of general public interest?

2 A. Yes.

3 Q. All right. Now, we gave some serious
4 thought to the question of whether Table 4.11 should
5 have an additional column on it called deviations,
6 being deviations from the guidelines. We have -- the
7 deviations from the guides, rather. We have not
8 included that table, included that in this at the
9 moment.

10 A. Thank you.

11 Q. Well, don't be too hasty, Mr.
12 Kennedy. I would like to illustrate to you the kind of
13 concern using a real example that we have and it has to
14 do with the -- again, using the spruce as an example,
15 and it relates particularly, Mr. Multamaki, to your
16 plan.

17 And if we can go to the spruce
18 guidelines, Exhibit 382, pages 20, 21 and 49.

19 MR. CAMPBELL: And, Mr. Chairman, we
20 have --

21 MR. FREIDIN: What are the pages again,
22 I'm sorry?

23 MR. CAMPBELL: 20, 21 and 49. And we
24 have copies of those, Mr. Freidin, that we would ask to
25 be included in our little binder and they will be now

1 pages -- I will wait until they arrive.

2 The page with 20 at the bottom would be
3 page 31 in the binder, the page with 21 at the bottom
4 would be 32, and page 49 from the spruce guides would
5 be 33.

6 Q. I want to refer you particularly to
7 the bottom of page 31 - I am referring to the new
8 numbering we have given these pages - where there is a
9 statement that:

10 "An understanding of the effects of wind
11 is important for the planning of
12 harvesting operations, especially
13 modified clear cuts. Windthrow of black
14 spruce is common in both upland and
15 lowland stands. Smith et al. (1987)
16 conclude that black spruce stands can be
17 expected to become susceptible to
18 windthrow once dominant stand height
19 exceeds 20 m. After this height, violent
20 winds in excess of 60 km per hour are
21 likely to cause considerable losses in
22 stand volume due to windthrow."

23 Again, going on to the next page in the
24 second paragraph there is a study referred to about
25 once stand breakup begins it proceeds rapidly, some of

1 the stands lost up to half their volume.

2 "The authors attribute the cause of
3 windthrow to the shallow rooting system
4 of black spruce in combination with
5 the mechanically weak organic and poorly
6 drained clay soils they studied."

7 I think the general point I would just
8 ask you to agree with, Mr. Multamaki, is that black
9 spruce is susceptible to windthrow. You would agree?

10 MR. MULTAMAKI: A. Yes.

11 Q. Referring to group seed tree cutting
12 on page 49 of the spruce guides, which is page 32 that
13 I have handed out -- 33, I'm sorry. The group seed
14 tree cutting that is spoken of can -- it's recommended
15 that areas of 10 to 40 hectares be retained.

16 Are you familiar with that portion of the
17 guides?

18 A. Yes, I am.

19 Q. And if we go down into the next
20 paragraph where we are talking about group seed trees,
21 about halfway through the paragraph it reads:

22 "Windfirmness, especially on shallow and
23 very shallow soils, is critical since the
24 groups are more exposed here than in
25 strips."

1 Correct?

2 A. Yes.

3 Q. All right. Then I would like to read
4 you just an excerpt from your Panel 10 evidence, and in
5 your Panel 10 evidence at page 97 the statement is made
6 as follows --

7 MR. FREIDIN: Any particular witness you
8 are referring to?

9 MR. CAMPBELL: I am referring to the
10 document.

11 MR. FREIDIN: I wasn't sure when you said
12 'your evidence' you were referring to Mr. --

13 MR. CAMPBELL: No, I mean MNR's evidence.

14 Q. Page 97 of the group -- of the Panel
15 10 evidence, Exhibit 416, page 97 as I say, the
16 following statement is made:

17 "In Ontario, the group seed tree system
18 is used only in the harvest of mature
19 black spruce stands on poorly drained
20 deep organic soils where the sphagnum
21 seedbed is suitable for black spruce
22 establishment."

23 Now, against that background, Mr.
24 Multamaki, if we can go back please to your Table 4.11
25 and, in particular, to the page that is page 16 of

1 Table 4.11 -- in the material that I have handed out,
2 where we deal with the Sb6 prescriptions, and you
3 indicate under there where group seed tree is being
4 used for harvesting of black spruce on shallow
5 mineral soil that seed blocks should be left on the
6 shallower sections of the shallow mineral soils, and
7 then you continue.

8 It occurred to us in looking at this that
9 given the black spruce guide saying that it was very
10 susceptible to windfirmness, given the evidence that
11 there was a windthrow problem with black spruce, given
12 the evidence that we saw on page 97 of Panel 10 that
13 leaving black spruce group seed tree blocks on the
14 shallower sections of shallow mineral soils might well
15 be considered a deviation from what was contemplated by
16 the silviculture guides.

17 And I guess I would just ask you comment
18 whether you see it as a deviation and, if so, whether
19 you think it is worth noting that kind of deviation in
20 Table 4.11?

21 MR. MULTAMAKI: A. I knew eventually I
22 was going to have to comment on that particular
23 prescription.

24 If you look at the Sb6 and Sb7, in fact
25 you are really talking about the same site type,

1 shallow mineral soils. The difference between the two,
2 the Sb6 and Sb7, is to proposed working group or forest
3 unit, the third column.

4 Q. Yes.

5 A. One is to spruce, one is to jack
6 pine; two completely different silvicultural systems.

7 Q. Yes. And I am interested in the one
8 where you want the working group to come back to black
9 spruce.

10 A. I am getting to that, Mr. Campbell.
11 The point here is that we had looked at the occurrence
12 on the Red Lake Crown of sites that were shallow
13 mineral soil, had black spruce working group to begin
14 with, and converting them where possible to jack pine
15 because of the windthrow problem and so on.

16 There are a number of instances, however,
17 where the shallow mineral soil is not uniform, the
18 topography is not uniform and it was considered that we
19 could in fact regenerate it back to black spruce
20 through strip cutting or group seed trees, group seed
21 tree blocks.

22 As well, these sites, the Sb6 and Sb7
23 site types, it is very uncommon to find black spruce
24 that exceeds that 20 metres in height. In fact, I
25 would suggest that if you look at the map of the Red

1 Lake Crown Management Unit you will see very few black
2 spruce stands that have an FRI typing that exceed 20
3 metres in height simply because of its location in the
4 province, the relatively slow growth rate in black
5 spruce and, in this instance, the shallow -- relatively
6 shallow minieral soil that it's growing on.

7 Although windthrow is a concern, it also
8 states in the guideline that it is of greatest concern
9 when the height type is above the 20 metres. So height
10 does play a key role in addition to the depth of the
11 soil.

12 And that was the decision for these two -
13 how do deal with what's actually out there, black
14 spruce on shallow soils. And the option was that:
15 Yes, we can regenerate back to black spruce by leaving
16 a seed source.

17 Q. Now, I took the height being as the
18 height of the stand. Are you saying that even when
19 there is a small -- even when there is a group of seed
20 trees left that it's still only a concern when it is
21 over 20 metres?

22 A. No, I am saying that the literature
23 in the black spruce guidelines state that it is of
24 greatest concern when it's over 20 metres. If you go
25 back to your evidence --

1 Q. It's in the stand?

2 A. In the stand.

3 Q. It is speaking of in the stand not
4 the group seed trees that are left at that point in the
5 guide; is it not?

6 A. I think if you go to page 31 of your
7 evidence, Mr. Campbell, the bottom paragraph states:

8 "Windthrow of black spruce is common in
9 both upland and lowland stands.

10 Smith...(1987) concluded that black
11 spruce stands can be expected to become
12 susceptible to windthrow once dominant
13 stand height exceeds 20 m."

14 We are talking about stands that are over
15 20 metres in heighth. They generally on the Red Lake
16 Crown do not occur on Sb6 and Sb7 site types, they
17 occur in the 3s, 4s and 5s. By the same token, they
18 also don't occur in the Sb1s and 2s because of the
19 heavy organic layer and the very wet or high amount of
20 moisture that's there. Therefore, when you are dealing
21 with stands that are 14 or 15 metres in heighth, they
22 are not as susceptible to very tall stands.

23 Q. All right. Well, Mr. Multamaki, I
24 guess my question is simply this: On shallow mineral
25 soils in the Red Lake unit, when you leave group seed

1 trees, which are only a little bit of the stand left,
2 when you leave group seed trees, what is the rationale
3 for leaving it on the shallower sections of already
4 shallow mineral soil?

5 Why is it left to the shallower sections
6 of the shallow mineral soil?

7 A. I think part of the -- or the
8 rationale behind leaving them on shallower sections
9 was -- had to do with the site type that was
10 encountered.

11 Generally, as I have said, the shallower
12 the soil the shorter the trees, genetically they are
13 exactly the same in most cases or very similiar to the
14 rest of the stand. The shallower sites, I guess in our
15 mind, were less desirable to industry because of the
16 smaller size material. If you are going to leave a
17 seed source, that was the preferred location from an
18 industrial standpoint.

19 On top of that, the sites being very
20 shallow -- or being shallower at that point, it is
21 preferable to leave the cover there rather than the
22 deeper sections of that particular stand.

23 THE CHAIRMAN: Mr. Campbell, I hesitate
24 to interrupt you, but where is this all going?

25 MR. CAMPBELL: It is going, Mr. Chairman,

1 right back to where I started which is, I take it, that
2 given that rationale that Mr. Multamaki doesn't see
3 this as a deviation from the guides even though it
4 appears to be in contradiction to the evidence of Panel
5 10.

6 THE CHAIRMAN: Suppose he sees it as a
7 deviation from the guides?

8 MR. CAMPBELL: Well, then I would ask him
9 is -- then my question was going to be: Should there
10 not be some indication on Table 4.11 of whether
11 deviations were occurring.

12 THE CHAIRMAN: Okay. Mr. Multamaki,
13 assuming that this is a deviation from the guides - it
14 may not be in your view but assume it is - should there
15 be a notation on Table 4.11 as to when you deviate from
16 the guides?

17 MR. MULTAMAKI: No. I think if you are
18 going to deviate from the guides, though, you should
19 make mention of it in the text that accompanies that
20 table and explain the rationale behind it. Certainly
21 when I wrote this plan, had I deviated from the guides,
22 and the guide for black spruce wasn't there, but --

23 THE CHAIRMAN: But not in the table
24 itself?

25 MR. MULTAMAKI: Not in the table.

1 THE CHAIRMAN: You would put the
2 explanation in the text accompanying the table; is that
3 your answer?

4 MR. MULTAMAKI: As a forester I would
5 feel obligated to explain why I made that decision.

6 THE CHAIRMAN: Thank you.

7 MR. CAMPBELL: Q. All right. So, Mr.
8 Kennedy, you would agree with that answer, that it
9 is -- that foresters in preparing these plans should
10 feel obligated to explain deviations from the guides,
11 the silviculture guides, and I would ask for your
12 opinion if you agree with that as to whether you view
13 it as a matter that should be noted in the table or one
14 which you feel can be adequately dealt with in the
15 text?

16 MR. KENNEDY: A. This is an area where
17 I'm going to have to give a qualified answer on.

18 I think where there is a significant
19 deviation from the guide that it would be -- the
20 forester would be expected to provide the rationale for
21 that treatment, yes.

22 THE CHAIRMAN: And your only difference
23 from Mr. Multamaki's answer is the word -- or the
24 qualification 'significant'; is that correct?

25 MR. KENNEDY: Yes.

1 THE CHAIRMAN: Thank you.

2 MR. CAMPBELL: Q. And you are content to
3 see it in the text not in the table, or would you
4 prefer to see a notation in the table that at least
5 alerted you to the fact that you might read up on this
6 in the text?

7 MR. KENNEDY: A. I would prefer to see
8 it in the text that would accompany a table.

9 Q. Doesn't that have the danger that if
10 one is going through the plan to just get an overview
11 of how these things have been applied that the tables
12 are very helpful in providing that overview and you
13 might miss it entirely?

14 A. Well --

15 THE CHAIRMAN: Mr. Campbell, can we agree
16 that if somebody is going to review the plan in order
17 to ascertain what's going on, because they are
18 interested for whatever reason, that they are either
19 going to review the plan in its entirety; i.e., look at
20 the supporting material or the text to whatever degree
21 their interest might take them, or they are just
22 interested in a very cursory way as to what might be
23 going on and, therefore, may just glance at tables.

24 And don't you run into the problem that
25 there is a dividing line somewhere as to what becomes

1 an overview superficial approach and what becomes an
2 in-depth examination of a plan?

3 MR. CAMPBELL: I agree, Mr. Chairman that
4 there has to be -- there is a judgment to be made there
5 and that judgment bears directly on matters that should
6 be noted in tables and matters that should be not.

7 Let me explain to you the kind of concern
8 which the Ministry of the Environment faces in this.
9 Currently it receives copies of all draft plans, it
10 receives copies of all approved plans. There are
11 sufficient units in the province that if the plan
12 production of drafts and approvals was evenly spaced on
13 this five-year rotation a new document in its many
14 binders and with maps as will be coming, when they are
15 developed, will arrive on desks at the EA Branch every
16 week and a half, another seven binders.

17 It would be extremely helpful, I suggest,
18 if on some of these key tables deviations were noted.
19 It gives the reviewer an opportunity to glance through
20 the tables and say: Ah, they've said they are applying
21 the silviculture guides, I see nothing here that
22 indicates that there is any significant deviation and,
23 therefore, I can pass on to the next part of the plan
24 that I can review.

25 We would like certainly to be able to

1 rely on the kinds of guides and documents that the
2 Ministry of Natural Resources is relying on.

3 THE CHAIRMAN: Okay. So is part of your
4 suggestion that in order to accommodate the needs of
5 the Ministry of the Environment in terms of, I assume,
6 manpower, staffing problems, people who are available
7 to examine these kinds of plans, that the information
8 which would be of relevance to them should be set out
9 in summary form?

10 MR. CAMPBELL: That would certainly be
11 helpful, Mr. Chairman; no question about it. What
12 we --

13 THE CHAIRMAN: Let me go one step
14 further. Is it the intention of the Ministry
15 essentially, as far as you know, to conduct their
16 examinations in terms of summary information without
17 going beyond the summary information?

18 MR. CAMPBELL: I don't think that can be
19 said in every case. I think to the extent that the
20 matters are being dealt with as contemplated by guides,
21 guidelines, resource environmental manuals, et cetera,
22 it would be my position that it shouldn't be necessary
23 for the Ministry to go beyond that if those things --
24 if the Ministry of Natural Resources tells the Ministry
25 of the Environment that all of those things are being

1 applied as contemplated on their face, the Ministry of
2 the Environment is content to rely on those guides, it
3 has input into those guides.

4 The problem arises if --

5 THE CHAIRMAN: What if they tell the
6 Ministry that the guides and other manuals are in fact
7 being applied and the tables set out what the tables
8 set out and, in fact, if you want to check to see that
9 the guides are being applied, you can look to the
10 accompanying text or any of the other information that
11 comes along with the plan?

12 MR. CAMPBELL: If the Ministry of Natural
13 Resources was prepared to, in effect, assure the
14 Ministry of the Environment that the plan complied with
15 all relevant guides, guidelines, resource environmental
16 manuals --

17 THE CHAIRMAN: And where significant
18 deviations occurred they would be noted.

19 MR. CAMPBELL: In that certification, if
20 you can call it.

21 THE CHAIRMAN: That's right. Would the
22 Ministry be - not happy - but would the Ministry be
23 content, if I might put it that way?

24 MR. CAMPBELL: I think I could safely say
25 that the Ministry would be happy, not just content.

1 THE CHAIRMAN: What does the Ministry of
2 Natural Resources think about that suggestion?

3 MR. KENNEDY: Mr. Chairman, the Ministry
4 of Natural Resources also has some limitations in both
5 staff and physical matters, and such a proposal I
6 believe would have some serious ramifications on the
7 manner in which we conduct our business and I believe
8 we would have to explore that further with some senior
9 staff members.

10 THE CHAIRMAN: Well, there seems to be
11 somewhat of an impasse. You have two ministries which
12 are claiming joint responsibility, if I might put it
13 that way, to the public; the Ministry of Natural
14 Resources in preparing the documentation, the Ministry
15 of the Environment in ensuring that environmental
16 impacts are appropriately dealt with, both have staff
17 limitations, both have problems of people physically
18 being able to check to ensure that the requirements are
19 in fact met.

20 Perhaps we should institute a new level
21 through some other ministry that could check on the
22 previous two ministries. I mean, is that really a
23 satisfactory answer?

24 In other words, if one ministry
25 accountable to the people is prepared to certify that

1 the requirements have in fact been met, why is it a
2 good expenditure of public funds to have a second
3 ministry of the same government run the check?

4 MR. KENNEDY: Well, if I understand your
5 comment, I agree. We are endeavoring to put forward
6 guidelines that have been developed with the best
7 expertise available in those matters, we expect input
8 from all concerned parties in that regard.

9 THE CHAIRMAN: Even with the -- what
10 about a certification that says to the best of your
11 knowledge and belief everything has been met?

12 MR. KENNEDY: Mr. Chairman, I believe
13 that is exactly what we do now. We are using qualified
14 staff to produce timber management plans that have --
15 using the best information available from, I consider,
16 all resource managers within MNR and other ministries.

17 THE CHAIRMAN: So what's the problem with
18 somebody certifying it to the Ministry of Environment?

19 MR. KENNEDY: With some difficulty I
20 would turn the --

21 THE CHAIRMAN: And so then the Ministry
22 of the Environment could say: Well, we have a
23 certification here, it appears that all requirements
24 have been met, should they have a spare moment or an
25 afternoon that a particular individual in the

1 Environmental Assessment Branch happens to have free,
2 he might even venture to check it.

3 MR. KENNEDY: But, Mr. Chairman --

4 THE CHAIRMAN: If he checks it and goes
5 through the whole plan and all the accompanying
6 documentation and the tables he might satisfy himself
7 as to whether in effect that, you know, the standard is
8 being met.

9 MR. KENNEDY: I do believe we now certify
10 plans to that effect, that--

11 MR. CAMPBELL: Well, just a minute.

12 MR. KENNEDY: --to the best of our
13 judgment that we are using all available information
14 and that is why we require registered professional
15 foresters that are registered under the Act in Ontario
16 to be principal authors of the plan.

17 MR. CAMPBELL: Mr. Chairman --

18 MR. KENNEDY: And in doing that, Mr.
19 Chairman, they are using professional judgment on the
20 basis of the information that they have available to
21 them and their experiences, and when they feel it's
22 necessary to deviate from the silvicultural guide,
23 based on the years of experience they have and the
24 formal schooling and the benefit of all the resource
25 manuals and other guides and other information they

1 have there, that's their professional judgment.

2 THE CHAIRMAN: Okay.

3 MR. KENNEDY: And to submit -- and they
4 do certify to that effect.

5 MR. CAMPBELL: Well, Mr. Chairman, with
6 respect, Mr. Kennedy has narrowed the scope of your
7 question and I answer it in the following context:

8 There are a variety of silviculture
9 guides, provincial guidelines, resource environmental
10 manuals, a whole range of things that are listed in the
11 terms and conditions which are relied upon by the
12 Ministry of Natural Resources in saying that the
13 undertaking is being carried out in an environmentally
14 acceptable manner.

15 I answered my question in the context of
16 saying that a certification that all of those things,
17 where they are applicable - and sometimes there won't
18 be the resource feature there so it's not applicable -
19 I answered my question -- I answered the question you
20 asked me in the context of deviations from all of those
21 documents for those particular features and matters. I
22 think it goes a little farther beyond what Mr. Kennedy
23 was saying.

24 Quite frankly, I think that the
25 suggestion you have made about some kind of a

1 certification is a very efficient way of dealing with
2 it. If there is such a certification that all of those
3 things have been complied with, we would be prepared to
4 honour that.

5 THE CHAIRMAN: Well, I think Mr. Kennedy
6 is going partway to say that mere signing of a plan by
7 the district manager is indicating that the various
8 documents and policies and judgments made by foresters
9 within their professional capacity have been made.

10 I think -- is that not what you are
11 indicating to some extent, Mr. Kennedy?

12 MR. KENNEDY: Yes, I am, Mr. Chairman,
13 that the registered professional forester, the
14 principal author, is affixing his certification seal to
15 the plan.

16 THE CHAIRMAN: Right. By the author of
17 the plan?

18 MR. KENNEDY: Yes, and the district
19 manager --

20 THE CHAIRMAN: And the district manager
21 after the review process?

22 MR. KENNEDY: Is also signifying to that
23 effect.

24 THE CHAIRMAN: Right. But going one step
25 further for Mr. Campbell, if that certification

1 contained a further statement, so to speak, that said
2 in effect: And that all deviations from the guides and
3 policies, et cetera, have been noted...

4 MR. KENNEDY: Have been noted.

5 THE CHAIRMAN: Noted, notated within the
6 plan, either on a summary table or within the textual
7 description that accompanies the tables, then that
8 would alleviate the Ministry of the Environment, as I
9 understand it, from having to go and check all these
10 things.

11 Does that help you at all, Mr. Campbell?

12 MR. CAMPBELL: Yes, it does, Mr.
13 Chairman. A couple of comments. First of all, Mr.
14 Straight in his evidence in Panel 8, cross-examination
15 by Ms. Seaborn, indicated that in any event the
16 regional manager, MNR, reviewed the plans for deviation
17 already, so it's not as if there is something else
18 being required.

19 The only other comment I would make is
20 that on page 25 of the Timber Management Planning
21 Manual the district manager certifies that the plan is
22 consistent with other resource management plans, land
23 use guidelines and policies for the area. Those are
24 the sort of particular documents that are referred to
25 and, I guess in response to your question, we would see

1 that such a certification relating to the resource
2 environmental manuals, operational manuals and so on,
3 the other things that are listed in the draft terms and
4 conditions. If we could be sure of that that would be
5 very helpful.

6 THE CHAIRMAN: You see, the problem the
7 Board has is that you want in this whole approval
8 process or planning process resulting in approved plans
9 to minimize, where possible, the duplication of effort.
10 Where it has already been done, and it has been done by
11 people who have the professional expertise in the
12 particular area, it doesn't make a lot of sense to have
13 somebody in another ministry reviewing all of the data
14 upon which those decisions were arrived at.

15 The Board would think that it would be a
16 far more responsible exercise if the Ministry of the
17 Environment's mandate to be front and center when
18 developing these guidelines and those manuals to ensure
19 at that stage that the environmental impacts are
20 minimized or acceptable to the Ministry of the
21 Environment, and then to have a mandatory application
22 where applicable to the specific area or management
23 unit being considered apply.

24 In other words, those guidelines and
25 various policies have to be applied. If they are

1 applied and if the Ministry of Natural Resources
2 certifies that they have in fact been applied, and
3 where they have been deviated from it is so noted, then
4 it doesn't seem, at least to the Board, to be an
5 efficient way of resources to have the Ministry of the
6 Environment reinvent the wheel.

7 It may in certain specific instances
8 because there is a particular type of impact that the
9 Ministry is particularly concerned about, it may
10 investigate that solely on its own - in fact that may
11 be the very basis of a bump-up request into a
12 full-blown EA on a specific problem - but it would seem
13 to alleviate a lot of the problems that the Ministry of
14 the Environment would have in reviewing these multitude
15 of plans if it could simply say to itself:

16 We have ensured that the environmental
17 impacts are going to be minimized because we have
18 ensured in the development of the various guides and
19 policies that those things are taken into account. We
20 now have the assurance of the Ministry who prepared the
21 plans and went through the planning process that those
22 have been adhered to, we have a certification, we also
23 have an indication where there have been deviations so
24 that we can investigate those if we think those
25 deviations are for some reason inappropriate, and then

1 we, as the Ministry of the Environment, can spend our
2 time and our resources looking at those specific
3 situations which may be out of the ordinary.

4 And that to the Board, at least this
5 member of the Board, would seem a more efficient way of
6 utilizing both ministries' resources.

7 MR. CAMPBELL: It seems to me you have
8 written my argument. I mean, I think that certainly is
9 a practical way from the Ministry of the Environment's
10 point of view to deal with it.

11 THE CHAIRMAN: Well, why don't we take a
12 break at this time for 20 minutes.

13 Mr. Multamaki, just before we leave,
14 would you mind giving consideration over the break to a
15 ballpark figure on how many times you have deviated
16 from the various guides in the preparation of the Red
17 Lake Plan, how many times you think you deviated from
18 the silvicultural guides with respect to that plan?

19 MR. KENNEDY: Mr. Chairman, Mr.
20 Multamaki's ability to do that would be somewhat
21 hampered by the number of draft guides that were in
22 place at that time.

23 THE CHAIRMAN: Okay. Well, I think what
24 we want is just a sense of whether it is, you know, 100
25 times, 20 times, 200 times, if you can give us a

1 ballpark figure.

2 MR. MULTAMAKI: Yes, I can give you a
3 figure.

4 THE CHAIRMAN: Thank you.

5 ---Recess taken at 3:05 p.m.

6 ---On resuming at 3:40 p.m.

7 THE CHAIRMAN: Thank you. Be seated,
8 please. Well, Mr. Campbell, where did we leave off?

9 First, Mr. Multamaki, have you got a
10 ballpark figure, by any chance?

11 MR. MULTAMAKI: Yeah. I've looked at the
12 silvicultural ground rules for the Red Lake Crown, and
13 this is my feeling and the feeling of the other
14 foresters on the panel, that there were no significant
15 deviations from the existing guidelines.

16 The issue that Mr. Campell raised earlier
17 about modified harvest cutting I guess is the closest
18 that I feel you could come to what would be considered
19 a deviation and, to be right upfront, I do not consider
20 that a deviation.

21 THE CHAIRMAN: Okay, that's helpful.
22 Now, going to the other matter we discussed just prior
23 to the break, the idea of the certification by the
24 Ministry. What are the views of the Ministry on that
25 whole proposal, if we can call it that, at this point?

1 MR. CAMPBELL: Well, Mr. Chairman --

2 MR. MARTEL: They didn't volunteer
3 anything.

4 MR. CAMPBELL: I can tell you that I have
5 instructions, and I won't tell you for how long I've
6 had them, but I have instructions that would permit me
7 to consent to that arrangement right now.

8 THE CHAIRMAN: Okay. That's from your
9 side.

10 MR. CAMPBELL: Yes.

11 THE CHAIRMAN: But let's hear from the
12 Ministry's side since they are the ones that will be
13 doing the certifying supposedly.

14 MR. KENNEDY: First of all, Mr.
15 Chairman --

16 MR. CAMPBELL: I'm sorry, just a minute.
17 Mr. Kennedy, would you mind if I interrupted for just a
18 minute.

19 There is one thing. Mr. Multamaki has
20 indicated that he does not believe that the particular
21 one that we had a question about is a deviation. I
22 want it clear that we raised that because it was a
23 question with us; it was not that we had concluded that
24 there was necessarily this, that or the other
25 conclusion, it was a question, and I hope my questions

1 were taken as simply being that.

2 I accept fully that there is some
3 judgment that has to be dealt with on these matters and
4 that that is the judgment of the forester involved. I
5 do not wish to be taken as sort of setting up
6 artificial deviations where none in fact occur, and I
7 don't want anything that I've said to be taken as that.

8 So it is really more for Mr. Multamaki's
9 benefit perhaps than the Board's, but I don't want to
10 leave any misapprehension in Mr. Multamaki's mind.

11 THE CHAIRMAN: Okay. And the Board would
12 like to explore the idea of the Ministry of Natural
13 Resources providing some kind of certification,
14 suitably worded, that would indicate that in addition
15 to approving the plan, which is obviously mandatory in
16 accordance with the Crown Timber Act, et cetera, that
17 an appropriate official of the Ministry in the
18 particular region supposedly or district would certify
19 that all of the guidelines and policies, et cetera,
20 have been followed to the extent that they apply and
21 that any deviations from those policies or
22 silvicultural guides are noted within the plan, whether
23 they are on the table or whether they are within the
24 text, and they would do that to the Ministry of the
25 Environment, the certification would be directed I

1 suppose to the Ministry of the Environment, although it
2 might be --

3 MR. CAMPBELL: It could be simply a
4 certification.

5 THE CHAIRMAN: A certification that would
6 be available for anybody or any other ministry or the
7 public at large for that matter.

8 And if the Ministry were prepared to do
9 that under those parameters, then that may go a long
10 way towards avoiding what the Board considers might be
11 unnecessary duplication in terms of review by the
12 Ministry of the Environment and it would still leave a
13 Ministry accountable to the public as the agency which
14 is providing such certification.

15 Presumably, if this were made a condition
16 of approval in connection with this class environmental
17 assessment, then a deviation or a breach, if I might
18 put it that way, of one of the conditions would set up
19 a statutory offence under the Environmental Assessment
20 Act to be dealt with as statutory offences are dealt
21 with under that piece of legislation.

22 MR. COSMAN: Mr. Chairman, as someone
23 whose clients may be caught in the cross-fire between
24 the Ministry on this issue, I think it would be very
25 important in whatever worked out that the definition of

1 deviation be --

2 THE CHAIRMAN: Yes. Well, that is true,
3 and obviously the forester involved for the companies
4 on an FMA unit will have maybe a vicarious
5 responsibility to the Ministry which has the ultimate
6 public responsibility of reviewing what the company
7 forester does in any event under the process.

8 So it doesn't, I don't think, Mr. Cosman,
9 create any undue difficulties for your clients'
10 foresters because their work in effect is being
11 checked, reviewed and supposedly certified by the
12 Ministry of Natural Resources under this proposal.

13 We are just trying to devise some system
14 whereby two ministries aren't doing the same thing,
15 particularly where one ministry has the expertise on
16 the forestry side where the judgment calls have to be
17 made in terms of silvicultural guides, et cetera; and
18 the other ministry is interested essentially in
19 environmental impacts resulting from forest management
20 activities, but perhaps their resources can be better
21 spent in providing the necessary input and direction in
22 terms of the preparation of these guiding documents in
23 the first place, such as the silvicultural guides.

24 And if the Ministry of the Environment
25 takes a look at a situation when the guides are being

1 developed and decides that the Ministry of Natural
2 Resources' proposal for environmental mitigation is
3 unsatisfactory to the Ministry of the Environment, that
4 would be, in the Board's view, the place where the two
5 ministries have to address the problem ad idem or
6 somebody has to take the dominant role.

7 And that to us would seem to be a much
8 more viable, practical, less costly use of public
9 resources while, at the same time, ensuring
10 accountability to the public.

11 MR. CAMPBELL: Well, as I say, Mr.
12 Chairman, all of that, I have instructions that permit
13 me to consent on behalf of the Ministry to that kind of
14 an arrangement.

15 I would like to support Mr. Cosman's view
16 that there needs to be some discussion amongst the
17 parties as to kind of what triggers that kind of
18 reporting, but that's a matter I think that we needn't
19 spend any time on today. I think it's a matter that
20 reasonable people can sit down and come up with a
21 sensible plan.

22 THE CHAIRMAN: And it shouldn't be that
23 much more difficult than devising the same type of
24 thing that now triggers the regional manager coming in
25 with the extra reporting that's required when there is

1 deviation from certain of the guides as they now stand,
2 where there is that extra reporting requirement. You
3 may be able to come up with a similiar type of
4 triggering mechanism.

5 MR. CAMPBELL: I am sure that that -- I
6 mean, I have confidence that reasonable people can work
7 out a solution to bring back to you on that, and I do
8 want to record the fact that I support Mr. Cosman's
9 view that it is obviously of some interest to people
10 what triggers that additional requirement.

11 THE CHAIRMAN: Right. And with respect
12 to that, his clients should be a party to those
13 discussions.

14 MR. CAMPBELL: Absolutely.

15 THE CHAIRMAN: So we are not expecting,
16 Mr. Freidin, an instant reply. No doubt you will have
17 to retain instructions and your clients will have to
18 discuss it amongst themselves. But that, in the
19 Board's view, would go a long way we think towards
20 solving some of this documentation problem.

21 MR. KENNEDY: Mr. Chairman, first of all,
22 the panel has not had the opportunity to discuss this
23 with counsel, so I take it we have permission to do
24 that now.

25 THE CHAIRMAN: Yes. And, by the way,

1 they might as well be allowed, Mr. Campbell, to discuss
2 this issue amongst themselves and counsel
3 notwithstanding they are under cross-examination. It
4 is perfectly reasonable in the circumstances.

5 MR. CAMPBELL: I have no difficulty with
6 that, Mr. Chairman.

7 MR. KENNEDY: And if I might just draw
8 your attention to the fact that in the proposed terms
9 and conditions in Exhibit 700, MNR has put forward a
10 term and condition that deals with manuals and guides
11 which is condition No. 40 which indicates that we feel
12 of course that it's essential that they be used in the
13 plan preparation.

14 THE CHAIRMAN: Well, that's almost a
15 foregone conclusion, in the sense that nobody has
16 seriously objected to that, neither has the Ministry of
17 Natural Resources. So I think you could assume that
18 there would probably be in any ultimate decision of
19 this Board some kind of condition, maybe not worded
20 exactly the way you have, that will address that
21 mandatory use of these documents.

22 MR. KENNEDY: As well I want to, if I
23 might, go to one other point, and that is on page 264
24 of Exhibit 813A, and address the suggestion that a
25 certification of some form would be helpful.

1 THE CHAIRMAN: Is this 264?

2 MR. KENNEDY: Yes, page 264 of Exhibit
3 813A, the statement of evidence for Panel 15. And
4 under the heading Recommendation we simply indicate
5 that the district manager's signature is in fact a
6 recognition of the need to apply all the guides and
7 manuals. So, in effect, it serves as a form of
8 certification.

9 THE CHAIRMAN: Well, it may be that type
10 of certification suitably worded to maybe encompass the
11 triggering mechanism for deviations that we have been
12 discussing and may be tightened up with some wording
13 that is more acceptable to some of the other parties.

14 I am not saying that this is
15 unacceptable, I am just saying that on first glance it
16 may be that it can be worded in a way that really
17 conveys no more responsibility than already exists on
18 the district manager.

19 MR. KENNEDY: We felt that maybe it would
20 be helpful if I pointed those two items out prior to
21 any discussions occurring.

22 THE CHAIRMAN: It is a starting point,
23 put it that way.

24 Are you done, Mr. Campbell?

25 MR. CAMPBELL: It's been a reel in here

1 today, Mr. Chairman, I have to confess. No, I think it
2 is fair to say that I --

3 THE CHAIRMAN: No, we said that
4 facetiously, we don't expect you'll be done.

5 MR. CAMPBELL: It's a little truer than
6 you may think.

7 THE CHAIRMAN: Well, we said it as a
8 joke. Don't tell us you are through, we haven't got
9 anything planned.

10 MR. CAMPBELL: Well, I know you would
11 rather do this than almost anything, particularly Mr.
12 Martel.

13 If I can, and I think without being able
14 to be terribly organized about it, there are some
15 things I would like to move through, but I think I can
16 do it a lot faster now that we are where we are. I
17 expect I will be ended tomorrow, but Tuesday morning is
18 looking like an appropriate arrangement.

19 THE CHAIRMAN: Who comes next after
20 tomorrow? Re-examination, I guess.

21 You won't be ready right away, will you,
22 Mr. Freidin?

23 MR. FREIDIN: It depends what Mr.
24 Campbell is saying, he is going to be finished tomorrow
25 or whether he is going to go into Tuesday.

1 And I raise that now because if he is
2 going to go into Tuesday, I would suggest that we
3 convene at 8:30 on Tuesday morning and not one o'clock,
4 as we had originally anticipated. My understanding was
5 that we arranged the one o'clock afternoon start on
6 Tuesday because we felt that only re-examination would
7 be required on Tuesday and we could start 16 on
8 Wednesday.

9 THE CHAIRMAN: There is a problem with
10 one of the witnesses as we recall.

11 MR. FREIDIN: That's right. What I am
12 saying is if in fact we don't finish the
13 cross-examination of this panel tomorrow, then I
14 suggest we start -- we go a full day on Tuesday.

15 MR. CAMPBELL: I feel fairly -- I'm
16 confident we will finish tomorrow, it is just a matter
17 of when in the day and, as I say, this afternoon has
18 sure helped in that respect.

19 THE CHAIRMAN: Okay.

20 MR. CAMPBELL: Q. If we could deal --
21 Mr. Kennedy, I want to just continue along the lines of
22 this traceability business a little longer.

23 We've dealt with 4.11, we had the
24 discussion about deviation. I want to come back to
25 where -- my original path in all of this was to this

1 sort of silvicultural traceability through from the
2 guides right through to the ground and back. I was
3 then going to ask you to turn to the stand listings
4 that are contained within this Part 2 of Exhibit 911.

5 Perhaps I can shorten this up by just
6 asking you whether you've now had an opportunity to
7 look at the different types of stand listings that can
8 be found taken from the different plans that are set
9 out in Section B of Part 2 of Exhibit 911.

10 Have you generally had an opportunity to
11 review some of those examples?

12 MR. KENNEDY: A. Yes, I have. I have
13 reviewed some in more detail than others, but I have
14 looked at all of them.

15 Q. Could you confirm for me that in fact
16 the kind of traceability that we were able to achieve
17 with Mr. Multamaki's Red Lake Plan cannot in fact be
18 achieved by using the stand listings in several of the
19 other plan examples that I have put forward because
20 they don't provide the information that allows a link
21 to be made from the stand map back to Table 4.11?

22 A. Certainly in the excerpts that I have
23 been provided with and not having the benefit of the
24 full plan, that I would agree that that's the case.

25 Q. Now, would you agree that in order to

1 provide that traceability it would be useful to add
2 that column giving the silvicultural prescription
3 designation taken from 4.11 and putting it on the stand
4 listing; that that is what is needed to provide that
5 traceability?

6 A. Yes, the instructions for the
7 appendix, as outlined on page 109 of Exhibit 7, does
8 provide some direction in that regard and I make note
9 of the fact that it is possible to group or provide
10 generic prescriptions. I think that's one idea that I
11 would want to keep open.

12 As well as I would want to possibly leave
13 open the opportunity to use a grouping of stands as
14 opposed to individual stand listings for that block.

15 Q. Yes. If you had a group of stands in
16 a block, you could trace it through for the block;
17 that would be one alternative?

18 A. Yes. I think I would want to keep
19 that possibility open.

20 Q. Well, certainly that seems perfectly
21 reasonable. Can I take it then from what you're saying
22 that you do agree that it would be useful to add to the
23 instructions at page - I guess it's 109 - something
24 that allowed that traceability to take place from 4.11
25 through to the stand allocations themselves?

1 A. I think the intent as stated there
2 now it could be better expressed, yes. It would be
3 something that we would consider or take under
4 advisement for the revision to the manual.

5 Q. Well, do you think it's a good idea
6 to be able to have that traceability?

7 A. A good idea? I would say that it is
8 something that would add to the traceability. I
9 indicated at the outset I wasn't quite clear on how
10 stand listings fit into the puzzle that you were
11 putting before us.

12 Q. Well, I thought --

13 A. I still have some difficulty seeing
14 the usefulness of that information, but I agree that it
15 can be done.

16 Q. Well, without that kind of notation
17 on the stand listings, is it possible for me to go from
18 the allocation map to the prescription alternatives on
19 Table 4.11?

20 What other mechanisms are there in the
21 plan that would provide me with the same capability?

22 A. Currently nothing.

23 Q. I'm sorry?

24 A. Currently there is nothing.

25 Q. All right. So that the only way to

1 do that is to do it through the stand listings and,
2 with that in mind, don't you think it's a good idea to
3 clarify that sufficient information to provide that
4 link ought to be in the stand listings?

5 A. Yes, that's I believe the
6 instructions and the intent given on the 109.

7 Q. All right. So you think that is a
8 good idea?

9 A. Yes.

10 Q. Thank you.

11 THE CHAIRMAN: That one was like pulling
12 teeth, Mr. Kennedy.

13 MR. KENNEDY: I'm sorry, Mr. Chairman.
14 There is a considerable volume of experience that --

15 THE CHAIRMAN: Work involved?
16 Well, is there a lot of work involved to do that, let's
17 approach it from that end? What level of effort is
18 required to do precisely that so that we might get some
19 indication of what its value is if it were done,
20 vis-a-vis, in order to have that link?

21 MR. KENNEDY: I would say that in order
22 to do it with a degree of precision as best -- I guess,
23 the best information available, that it is a reasonable
24 amount of work.

25 I would think that, again depending the

1 size of the management unit and the areas that were
2 planned for harvest, that it could constitute, oh, I
3 would think reasonably up to a week -- one week worth
4 of a person's time to do that.

5 It would require examination of all the
6 information actually that were referred to in Panel 7,
7 aerial photographs, inventories, the FRI, a variety of
8 access provisions, et cetera, to arrive at those
9 conclusions.

10 THE CHAIRMAN: Now, compare that with
11 somebody who wants to review something specifically and
12 goes up to the allocation map and picks out a stand and
13 wants the information as to what the silvicultural
14 prescription alternatives are relative to that stand;
15 how could they alternatively get that information,
16 without having it available for every stand within
17 every allocation unit?

18 MR. KENNEDY: I would suggest at that
19 point there would be really only two alternatives; one
20 would be to be -- by asking questions of someone at the
21 information centre, but if it was looking at maps that
22 were not at an information centre, then the only other
23 way would be to have locations on the map, something
24 akin to the bar charts that Mr. Multamaki used or some
25 other form of notation.

1 THE CHAIRMAN: Okay. And I guess the
2 question for you, Mr. Campbell, is: Apart from it
3 being nice information to have and a nice link to have
4 possible between the two pieces of data, is it worth
5 the week's work?

6 MR. CAMPBELL: Just a minute.

7 MR. KENNEDY: If I could, I think there's
8 one other piece of information I need to inform you of,
9 Mr. Chairman, that there is some benefit to that
10 information to the forester in the forecasting section
11 of the plan. I'm not disputing that it is -- well,
12 usable in plan preparation.

13 THE CHAIRMAN: So that week's work might
14 have some benefits in some other portion of the plan
15 and thus saves the forester some time in a different
16 process within the same plan?

17 MR. KENNEDY: Yes, sir. And that it is
18 the level of detail that concerns me more than the
19 concept of providing that forecast.

20 MR. CAMPBELL: Q. Well, we have in front
21 of us Mr. Multamaki's example. Is that a reasonable
22 level of detail as far as you're concerned, because
23 it certainly is from our point of view?

24 MR. KENNEDY: A. Quite frankly, no. I
25 believe the effort that Mr. Multamaki has gone to, both

1 in his effort to make the information more publicly
2 understandable and the level of detail he's gone to, is
3 in excess of what I think is -- should be required or
4 would be an improvement, and I think that the level of
5 detail that he's gone to may provide unnecessary - I'm
6 sorry - with respect, Mr. Multamaki, may provide an
7 unrealistic level of expectation on behalf of members
8 of the public.

9 Q. All right. Now, just a minute. Are
10 we talking both the stand listings and the bar charts?
11 My questions right now are aimed only at this one
12 column that Mr. Multamaki has on his stand listing
13 charts.

14 A. Then that's an entirely different
15 subject matter. The level that Mr. Multamaki has gone
16 to in his stand listings I think is quite acceptable.
17 The manner in which he has used his bar charts to me is
18 something that is in excess of a reasonable
19 requirement.

20 Q. All right. And if we're only talking
21 about the stand listings, is that what you meant by the
22 week? I take it you were speaking both of the bar
23 charts and the stand listings. I'm only talking about
24 the stand listings.

25 A. And I'm saying to you that in order

1 to get to the stand listings one needs to go through a
2 formal mapping exercise, and because after that mapping
3 exercise as well as all the other items I mentioned,
4 after all of that it's not possible to take a FRI stand
5 listing and using the species composition; age, height,
6 stocking, et cetera, and arrive at a silvicultural
7 prescription for that. You must bring into effect --
8 sorry, into account a wide variety of other
9 information.

10 Q. All right. But he's doing
11 silvicultural prescriptions in any event; is he not?

12 A. Yes.

13 Q. And, Mr. Multamaki, you've actually
14 done it. If you put aside the time for putting on the
15 bar charts -- and you may not be able to practically
16 answer this question, but if you put aside the time to
17 work out all the bar charts and look simply at the
18 incremental time that's associated with putting the Sb,
19 et cetera, notations on your stand listings, how long
20 incrementally did that take for you to do that?

21 MR. MULTAMAKI: A. I don't think you can
22 look at it as a simple exercise of running a list of Sb
23 numbers down the stand listing. That really was the
24 final result of a lot of information gather exercises,
25 field inspections and so on, and I personally think

1 that one week of work is insufficient on most
2 management units to provide the level of information
3 that I think you want with respect to that Sb1, Sb2,
4 and so on in the stand listings.

5 Q. Well, all I want is whatever you're
6 using, the Sb1, Sb2. That's all I want, is just that
7 notation on the stand listing that allows me to
8 connect - and by blocks is fine as opposed to stands -
9 back to the silvicultural prescription. And that's
10 really what I'm aiming at.

11 A. Yes. And certainly on the Red Lake
12 Crown Management Unit it was done, part of the reason
13 for that was that the unit itself is not that large
14 when compared to company units, for example.

15 I hesitate to say that the staffing was
16 reasonably good on it, the data collection exercises
17 were relatively good and there was a fair bit of
18 information available to myself, including personal
19 field inspections in areas that I was unsure of whether
20 they were an Sb1 or an Sb5 and so on.

21 Relating it to the other management units
22 that I've been involved in, it could be considerably
23 more difficult. You have to recognize as well with the
24 Red Lake Crown forest wise and geographically is not as
25 complex as a number of other units, particularly where

1 you get into mixed wood situation, broken topography
2 and so on.

3 So I'm saying that there may be a fair
4 range of units and unit requirements. My one caution
5 is that you may not be able to prepare exactly the same
6 type of stand listing with the silvicultural ground
7 rule tie-in for all units easily.

8 THE CHAIRMAN: One of the concerns, Mr.
9 Campbell, of the Board, particularly where company
10 foresters are also involved, is that the forester have
11 some time available to get out there and manage the
12 forest.

13 MR. KENNEDY: All right.

14 (applause)

15 MR. CAMPBELL: Even I'll applaud that,
16 Mr. Chairman, no question about it.

17 I think we have established - Mr. Kennedy
18 has been quite frank about it - that this is the only
19 way we have of connecting any particular set of
20 activities and prescriptions to a particular piece of
21 geography; it is the only way we've seen so far that
22 it's possible to do it.

23 And I would have thought that connecting
24 some particular proposal as to the kind of harvesting,
25 renewal, et cetera, to the geography was kind of

1 important from an environmental point of view.

2 THE CHAIRMAN: Well, with the exception -
3 and I go back to my earlier question to you, Mr.
4 Multamaki - that if somebody was interested in a
5 particular stand, there is another way to get that
6 information to ascertain what the alternative
7 silvicultural prescriptions are; and, that is, asking
8 the forester that prepared the plan.

9 Is that not correct; would you not be
10 able to do that, Mr. Kennedy?

11 MR. KENNEDY: Yes, you would. As well,
12 Mr. Chairman, I feel it necessary to inform you once
13 again that we're talking of normal operating areas and
14 it is very seldom that we have those kinds of inquiries
15 because we've dealt with peoples' values, features,
16 land uses, et cetera, through the area of concern
17 planning process.

18 It's very seldom that an individual would
19 come forward, in fact I have some difficulty conjuring
20 up such an example where someone could come forward and
21 just ask: In this area I'm interested in what you do.

22 THE CHAIRMAN: We are not adverse, Mr.
23 Campbell, to requiring the Ministry to fulfill what we
24 think are reasonable reporting requirements and
25 documentation requirements, provided that there is a

1 utility and need for that type of information in a
2 practical sense.

3 Because if they've got a limited amount
4 of personnel available, a limited amount of time
5 available for the documentation side of what's involved
6 in forestry and management, then it makes more sense I
7 think to the Board to spend that time and those
8 resources in the areas which are likely to be of prime
9 concern to members of the public, and in terms of
10 environmental impact which are of more prime concern in
11 terms of making sure that the environmental impacts are
12 negated and mitigated.

13 And surely we would like to see a much
14 higher level, if I might put it that way, of
15 documentation and reporting concerning the area of
16 concern planning process, because that's obviously
17 impinging upon values that are specific to people and
18 very personal in terms of the impact visited upon
19 various other users of the forest.

20 If there are going to be documentation
21 requirements with respect to normal areas of operation
22 which are not, by definition, causing a major problem
23 or likely to cause a major problem having been
24 protected, so to speak, by the various silvicultural
25 guides that have been developed for that purpose, then

1 perhaps the documentation requirement and the time
2 necessary and the resources to be expended should be
3 looked at more carefully in terms of the value of
4 having that information.

5 MR. CAMPBELL: I don't disagree with that
6 sentiment at all, Mr. Chairman, and none of my remarks
7 should be taken as disagreeing with that sentiment.

8 I suspect that it is an area in which
9 some judgment needs to be exercised given the large
10 proportion of the area of the undertaking that is in
11 this area of normal operations.

12 THE CHAIRMAN: But if it is a large
13 proportion in an area of normal operations and a
14 reasonable degree of protection is afforded by the
15 silvicultural guides and other prescriptions, then the
16 impacts are not necessarily correlated with the size of
17 the undertaking out there that is not going to be
18 impacted in a abnormal fashion; i.e., through the area
19 of concern type process.

20 Size doesn't necessarily equate with
21 severity of impact .

22 MR. CAMPBELL: Well, Mr. Chairman,
23 without getting into a long discussion of this, as I
24 say, I don't disagree with the sentiment of what you
25 express at all, I just caution that not all parties

1 before you would necessarily agree that environmental
2 protection objectives are in fact being achieved on
3 that 85 to 95 per cent of the area of the undertaking
4 to an adequate degree through the use of the
5 silvicultural guides.

6 THE CHAIRMAN: Well, that is a different
7 matter.

8 MR. FREIDIN: We have no evidence about
9 that.

10 THE CHAIRMAN: Sorry?

11 MR. FREIDIN: We have no evidence on that
12 matter.

13 MR. CAMPBELL: Well, there will be
14 people -- I just caution the Board. I think there may
15 be one or two people in this hearing who may take the
16 position that the proposition that environmental
17 protection is inherent in the silvicultural ground
18 rules is one that they may question.

19 THE CHAIRMAN: Well that may be, but that
20 is a different issue, with respect.

21 MR. CAMPBELL: Well, to an extent, Mr.
22 Chairman. But I would say to the extent that the Board
23 is persuaded by some of the other parties to the
24 hearing perhaps that that proposition is not true, then
25 to that exact extent it becomes increasingly critical

1 to be able to tie a particular prescription to a
2 particular piece of geography.

3 THE CHAIRMAN: Well, yes. But unless I
4 am misunderstanding your point, Mr. Campbell, either
5 the various prescriptions that are developed under the
6 silvicultural guides for normal operations are
7 sufficient to protect the environment, or the
8 environmental concerns, or they're not.

9 The fact that they may be reported or
10 linked in some way and whether or not somebody knows of
11 that linkage, to me, is a different question than
12 whether those prescriptions are adequate, the
13 alternative prescriptions.

14 MR. CAMPBELL: Oh, I see what you're
15 saying.

16 THE CHAIRMAN: Okay. And if they aren't
17 adequate and they require something else, maybe instead
18 of three alternative prescriptions, ten or a different
19 range of alternative prescriptions or different other
20 kinds of mitigative measures, then that's something
21 quite different.

22 MR. CAMPBELL: And let me just back up
23 slightly. I think certainly there are issues where
24 being able to tie it to the ground is important, things
25 like stand conversion and so on, where certainly MOE

1 would take a particular interest because it could
2 affect pesticide usage and so on for a stand conversion
3 of balsam fir.

4 There are some things like that where
5 there is a particular and definite interest. The other
6 thing though that I would have -- and we've had Mr.
7 Kennedy explain that that kind of linkage would be
8 useful to MNR itself, to some degree.

9 And the other thing that I think needs to
10 be borne in mind in all of this, and it's one of the
11 reasons why we were so interested in the bar chart
12 information and the fact that we were going to suggest
13 that this information on prescription be added to --
14 that site code be added to the bar chart, is so that if
15 somebody comes in and looks at that map and they've
16 been on the ground - and don't forget, we're not
17 talking all the vast tiaga here, we're also talking
18 areas of the province where there is significant
19 population densities - that if somebody comes in to the
20 information centre, is able to look at that and say:
21 You've got that down as shallow mineral soils. I've
22 been out there, in fact I would have thought that it's
23 deep mineral soils or something else.

24 I mean, there might be some benefit of
25 that type as well that might be available.

1 MRS. KOVEN: Weren't you, Mr. Campbell,
2 also touching on the point that if one is unable to
3 relate silvicultural ground rules with geographical
4 location, in fact there can't be any outside reviewer
5 audit, in fact there is no ability on the part of
6 external auditors to see what's going on in the
7 Ministry of Natural Resources without going through the
8 Natural Resources personnel and resources and so forth
9 to do that?

10 MR. CAMPBELL: Well, that's certainly
11 quite true and it's a difficulty that --

12 THE CHAIRMAN: But they can check on
13 their own. I mean, to use your most recent example,
14 that if somebody is out there, looks at the ground and
15 decides that from their own knowledge they know that
16 it's not a shallow mineral soils, it's an organic or
17 something like that, can they not come back and pick
18 out that stand on a map?

19 MR. CAMPBELL: I don't see how they can
20 without the link that I've proposed. They can't
21 connect the prescription to the map.

22 THE CHAIRMAN: There's a stand number;
23 is there not?

24 MR. CAMPBELL: Yes, but that tells one
25 nothing about what the prescription is for that stand.

1 THE CHAIRMAN: No, I know that, but can
2 they then not refer to the forester who prepared the
3 plan to say what the prescription on that stand is?

4 MR. CAMPBELL: Absolutely. They could go
5 and track down the forester and find out what the
6 prescription was.

7 My point in saying that is, if the
8 forester already knows what the prescription is - which
9 is what the proposition is - why not write it down? If
10 the forester can answer the question already, what's
11 the problem with writing it down?

12 I guess that's sort of -- I'm just having
13 a little trouble with the whole difficulty. If the
14 proposition you put forward is true, then all I'm
15 saying is: Why not write it down and do away with
16 having to bother the forester?

17 THE CHAIRMAN: What's the answer to that?

18 MR. KENNEDY: Mr. Chairman, I would
19 submit I'm sort of getting slightly confused and I
20 thought we had been around that topic several times and
21 I had indicated that according to page 109 of the
22 Timber Management Planning Manual, Exhibit 7, that in
23 fact there was a requirement to record that
24 prescription.

25 THE CHAIRMAN: For each stand?

1 MR. KENNEDY: For each stand.

2 THE CHAIRMAN: Identified by stand
3 number?

4 MR. KENNEDY: Yes.

5 THE CHAIRMAN: So that somebody could
6 look at a stand map, an allocation map, pick out a
7 stand number and go to the plan, supposedly, and find
8 out what the prescription is; is that correct?

9 MR. KENNEDY: Yes, and I put a number of
10 qualifiers of items that I would like to see as well as
11 Mr. Campbell mentions, several suggestions for
12 consideration when we revise that next, yes.

13 THE CHAIRMAN: Well, does that not solve
14 your problem, Mr. Campbell?

15 MR. CAMPBELL: Well, I think so and I
16 thought if it wasn't in the stand listing -- stand
17 listing is the right place for it? I mean, I thought I
18 got all confused on this.

19 MR. KENNEDY: Yes.

20 MR. CAMPBELL: Oh. Well then, obviously
21 I came off the tracks somewhere. If we're already
22 there, all I care about is being able to take the
23 prescription, go to the stand listing, tie it to
24 geography. If Mr. Kennedy is telling me that's what
25 it does, then I've wasted a lot of time.

1 THE CHAIRMAN: Is that what it does?

2 MR. KENNEDY: That's what it does,
3 correct.

4 THE CHAIRMAN: So you can go to a stand
5 map, pick off a number, like identify a stand, go to
6 the plan, and see what the prescription is by
7 identifying that stand; is that what you're saying?

8 MR. KENNEDY: It will allow you to tie it
9 to the silvicultural ground rule and, as such, see the
10 kind of options, prescriptions that are available to
11 you.

12 THE CHAIRMAN: For that very stand that
13 you've identified?

14 MR. KENNEDY: Yes, Mr. Chairman. And, if
15 I can, also indicated that I think that it may be more
16 appropriate to do it by block rather than individual
17 stands.

18 THE CHAIRMAN: Okay. Well, we understand
19 that. So I think, Mr. Campbell, your problem is
20 solved.

21 MR. CAMPBELL: I think it is and that's
22 great.

23 MR. KENNEDY: And, Mr. Chairman, that
24 kind of direction is outlined now on page 109 of
25 Exhibit 7.

1 MR. CAMPBELL: Well, obviously somewhere,
2 Mr. Chairman, I came off the rails and didn't
3 understand that this was necessarily part --

4 Q. You would agree with me, Mr. Kennedy,
5 that in some cases in the examples we've included in
6 here that information is in fact not there?

7 MR. KENNEDY: A. Yes, and--

8 Q. And what you're saying is it should
9 be?

10 A. --and I've agreed with you earlier
11 that that is the case and I also would point out that,
12 even though I haven't correlated this, that a number of
13 those plans are in draft stage under review.

14 Q. Having been certified by the
15 forester?

16 A. Yes.

17 Q. Thank you.

18 THE CHAIRMAN: Okay. But is it agreed
19 essentially by the Ministry that at the conclusion of
20 this hearing when a decision is rendered that there
21 will be a standardization of the documentation
22 requirements for all future plans to be governed by the
23 class assessment; is that not what is contemplated, so
24 that you won't get into this situation that Mr.
25 Campbell finds himself, and, that is: Some plans have

1 a certain level of detail, other plans have a higher or
2 lower level of detail; there will be a level with
3 the discretions built in that Mr. Multamaki has alluded
4 to and without necessarily specifying a minimum level
5 of documentation for specific items

6 MR. KENNEDY: Yes, Mr. Chairman, there
7 will be a format of that nature laid out and currently
8 we're suggesting that be contained in the Timber
9 Management Planning Manual.

10 THE CHAIRMAN: Okay.

11 MR. KENNEDY: The challenge will then be
12 to provide sufficient training and direction to ensure
13 that it's completed.

14 THE CHAIRMAN: Very well.

15 MR. CAMPBELL: Q. Mr. Kennedy and I
16 guess Mr. Multamaki, we have prepared a revised form of
17 the bar chart which I probably won't bother filing
18 right now, I just put forward for your consideration.

19 We have a couple of points. We thought
20 it might be helpful that where there was no entry in
21 one of the squares, for instance the method of
22 depletion just no entry, it might kind of be helpful to
23 put in 'not applicable' in case -- instead of just
24 leaving it as guesswork.

25 And we thought it might be helpful to put

1 an extra box on that gave the working group code and
2 perhaps the AOC number so that one wouldn't -- so that
3 one could go immediately to Table 4.11?

4 MR. KENNEDY: A. Now you're switching
5 topics, bringing areas of concern into this discussion?

6 Q. Well, yes. I mean, Mr. Multamaki has
7 a stand listing for area of concern as well that does
8 exactly the same thing, and I'm assuming --

9 A. I want to be clear.

10 Q. Okay. And I assume that's covered as
11 well by the instructions on 109 and 110?

12 A. Well, I believe we could probably sit
13 here for a number of days exploring different
14 possibilities of adding in additional columns, tables,
15 blocks, codes, et cetera, to any suggestion.

16 Q. Right.

17 A. I think that --

18 THE CHAIRMAN: It sounds like a
19 negotiating item, Mr. Campbell.

20 MR. CAMPBELL: Yes, I think so, Mr.
21 Chairman. I just thought I would let my friend know
22 that -- well, I guess I would like to ask whether he
23 thought it was a completely ridiculous idea to add that
24 one item which would give a code to either the AOC
25 number, if that was the applicable geographic sense, or

1 the silvicultural guide.

2 Q. I mean, do you think -- that being on
3 the stand listing already, do you think that would be a
4 big addition to the bar chart, or your problem is that
5 you're not that prepared to concede the bar chart
6 already?

7 A. Well, that is true, because I think
8 there may be more -- I think there may be better ways
9 in which to communicate that information to the public
10 and that are more administratively acceptable, and that
11 certainly keying in areas of concern, as is also
12 outlined on page 109 talking of prescriptions and the
13 use of Table 4.12 as the key to those stand listings, I
14 would expect that that may necessitate listing the area
15 of concern, but I would like an opportunity to explore
16 that further with you.

17 Q. All right. Well, we will take full
18 advantage of that offer. Now, I think I want to go to
19 area of concern documentation.

20 MR. CAMPBELL: And, Mr. Chairman, how
21 long did you intend to sit tonight?

22 THE CHAIRMAN: Well, you're going to
23 finish by three tomorrow, I take it?

24 MR. CAMPBELL: Guarantee it.

25 THE CHAIRMAN: Okay.

1 MR. CAMPBELL: Quite frankly, I can
2 guarantee that if we finish today now as well.

3 THE CHAIRMAN: Well, I doubt if we are
4 going to start anything beyond you -- or continue with
5 anybody else after you tomorrow.

6 Are you going to be prepared to do
7 re-examination tomorrow at any time, Mr. Freidin?

8 MR. KENNEDY: I think he would be.

9 THE CHAIRMAN: It sounds like you have
10 some pressure from the panel.

11 MR. FREIDIN: If you stay up with me
12 tonight, Mr. Kennedy, I'll --

13 MR. KENNEDY: I would be pleased to
14 assist you.

15 THE CHAIRMAN: Well, how long do you
16 think you'll be? If we continue on for a while, when
17 could you finish off tomorrow? How much have you got
18 left in hours?

19 MR. CAMPBELL: Could I have a minute.
20 ---Discussion off the record

21 MR. FREIDIN: I can just add that if Mr.
22 Campbell will endeavor to finish and leave me -- oh, I
23 don't know, a couple of hours I think is my usual, I
24 will accede to Mr. Kennedy's wishes, but that is what I
25 strive to do at all times.

1 THE CHAIRMAN: Well, that's not giving
2 him anything more than he would otherwise get; is that
3 right?

4 MR. FREIDIN: He would get all the
5 questions, that's all.

6 MR. CAMPBELL: Well, Mr. Chairman, let's
7 do it this way: Obviously given the way today has
8 gone, my notes are in a state of complete and utter
9 disarray.

10 THE CHAIRMAN: Makes for a fun day.

11 MR. CAMPBELL: Yes. Well, you know,
12 we've got to be flexible and use judgment in the
13 administration of our duties.

14 MR. MARTEL: You should have had a badge
15 on last night.

16 (laughter)

17 THE CHAIRMAN: For the record, we won't
18 indicate what the badge said.

19 MR. CAMPBELL: I will be quite willing --
20 there's tables associated with AOC planning records,
21 access road planning records, and crossing analysis
22 associated with access road planning records that we
23 were going to put to this panel.

24 What I can do, I think, in order to both
25 fix my notes and shorten tomorrow is to provide it to

1 them tonight, I'll indicate to them what we want to
2 discuss with them and so they can deal with it in an
3 efficient way tomorrow.

4 I do have a couple of other areas to
5 cover; one is MAD and how it's used in the planning
6 process, I have a brief concern about annual work
7 schedule and bump-up that I would like to deal with,
8 and again I would like to understand -- if I could have
9 a discussion with the panel and understand how far they
10 are along with this concept that they've mentioned
11 previously of providing a summary document, I may be
12 able to shorten my time significantly tomorrow.

13 If we could proceed on that basis, I
14 think I can probably be finished by noon. If we broke
15 for lunch at one, then Mr. Freidin gets his two hours
16 and the panel is finished.

17 THE CHAIRMAN: Well, what we're
18 suggesting, Mr. Freidin, if you could at least commence
19 your re-examination tomorrow afternoon and, if
20 necessary, finish it up in the first hour or so on
21 Tuesday.

22 We would have to bring back the whole
23 panel, I see. It would probably be preferable if you
24 finished tomorrow.

25 MR. CAMPBELL: I mean, I've got --

1 THE CHAIRMAN: Can we start early
2 tomorrow?

3 MR. CAMPBELL: Sure.

4 MR. FREIDIN: We start at eight o'clock
5 anyway.

6 THE CHAIRMAN: That's right, we're
7 starting early tomorrow.

8 MR. CAMPBELL: I think eight is as good
9 as I can do, let me tell you.

10 THE CHAIRMAN: Eight is more than
11 sufficient. I mean, we won't start any earlier than
12 eight. I'll have every other tribunal in the country
13 down on my head if they ever hear what we're doing out
14 here.

15 MR. CAMPBELL: I think, given that Mr.
16 Freidin and I will both feel a certain incentive from
17 the panel and for other reasons to get completed, and
18 given that Mr. McNicol has already advised me that he's
19 got venison in his eye, that I would hope to be able to
20 leave Mr. Freidin sufficient time and we'll work our
21 best to do that.

22 But if I can have a little bit of time
23 just to give this stuff to the panel, tell them what
24 I'm concerned about --

25 THE CHAIRMAN: All right. Well, you

1 don't need the Board for that; do you?

2 MR. CAMPBELL: No.

3 THE CHAIRMAN: Mr. Freidin, do you have
4 any objections if he proceeds in that way? It should
5 shorten things up.

6 MR. FREIDIN: No.

7 THE CHAIRMAN: You're welcome to be
8 around as he instructs your panel.

9 MR. CAMPBELL: I think there's no doubt
10 that he would be, Mr. Chairman.

11 THE CHAIRMAN: Okay. I think under those
12 circumstances, we'll break now.

13 MR. FREIDIN: Mr. Kennedy, is there
14 anything you have to say on my behalf?

15 MR. CAMPBELL: Mr. Chairman, there is one
16 thing. It might be helpful if the AOC material and the
17 access road, if we could distribute them now, give them
18 the next page numbers and it would be really helpful if
19 the Board tonight would take a look at the material
20 that has been filed with respect to AOC planning
21 records and access roads planning records which is
22 Section D and E of Part 2 of Exhibit 911.

23 If the Board would undertake to just have
24 a look through that to indicate the kind of
25 variability, the different kinds of information that

1 has been provided.

2 I mean, we take the view that there's
3 some really good working being done, but there's also
4 some substantial variability and differences, and if
5 the Board could save me the time of going through that
6 by looking at it tonight, I think that would be
7 helpful.

8 THE CHAIRMAN: Okay. Is this page 34?

9 MR. CAMPBELL: Yes, that would be 34,
10 that's correct, and then we have two more pages. And
11 then there are two pages associated particularly with
12 access road planning that would be pages -- 35 is the
13 access road planning record and 36 is, I think,
14 entitled crossing analysis.

15 And obviously if the Board - having
16 entertained yourselves with Section C and D - could
17 have a brief look at the various examples of the
18 summary of public consultation at the back end of the
19 Exhibit 911, that would be helpful too, but it's not as
20 difficult to deal with.

21 THE CHAIRMAN: Okay.

22 MR. MARTEL: That's C and D on pages 87
23 and 115 to 197?

24 MR. CAMPBELL: No. It's Section D
25 starting at page 115, runs through to 209, that's AOC

1 planning record, and then Section E which is the access
2 road planning record and crossing analysis section
3 which is page 209 through to 251 and then there are
4 about 10 pages or so of -- or 20 pages of public
5 involvement summary. It's really those sections that
6 I'll be focusing on.

7 And again, I'm not asking the Board to
8 read it in any great detail, just be kind of generally
9 familiar with the format. The purpose --

10 THE CHAIRMAN: We don't have to memorize
11 it?

12 MR. CAMPBELL: No. The purpose of our
13 questions is not to test whether every particular
14 decision is right or wrong, that's not our interest in
15 this matter. It's format, consistency, level of
16 information and detail.

17 Thank you, Mr. Chairman.

18 MR. FREIDIN: My only observation, Mr.
19 Chairman, is that Mr. Kennedy must have gone through
20 Dr. Osborn's school of witnessing, but he didn't get it
21 right; Dr. Osborn didn't answer my questions, Mr.
22 Kennedy just answers the questions that are asked of
23 me.

24 THE CHAIRMAN: Okay, ladies and
25 gentlemen. Eight o'clock tomorrow morning.

1 Thank you.

2 ---Whereupon the hearing adjourned at 4:35 p.m., to be
3 reconvened on Thursday, November 2nd, 1989,
4 commencing at 8:00 a.m.

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